



BELARUS

Decent Work Check 2019

Iftikhar Ahmad

Elena Golovko

WageIndicator Foundation - www.wageindicator.org

WageIndicator started in 2001 to contribute to a more transparent labour market for workers and employers by publishing easily accessible information on a website. It collects, compares and shares labour market information through online and face-to-face surveys and desk research. It publishes the collected information on national websites, thereby serving as an online library for wage information, labour law, and career advice, both for workers/employees and employers. The WageIndicator websites and related communication activities reach out to millions of people on a monthly basis. The WageIndicator concept is owned by the independent, non-profit WageIndicator Foundation, established in 2003. The Foundation has offices in Amsterdam (HQ), Ahmedabad, Bratislava, Buenos Aires, Cape Town, Islamabad and Venice.

The authors

Elena Golovko is a member of international team of WageIndicator Foundation and specializes in labour law and social security law of NIS countries.

Corresponding Author: Iftikhar Ahmad works as Labour Law Specialist with WageIndicator Foundation. He can be contacted at iftikharahmad@wageindicator.org

Acknowledgements

Many people contributed to the development of the Decent Work Check as a tool and to this Check for Belarus. Those who contributed to the development of tool include Paulien Osse, Kea Tjzens, Dirk Dragstra, Leontine Bijleveld, Egidio G. Vaz Raposo and Lorena Ponce De Leon. Iftikhar Ahmad later expanded the work to new topics in 2012-13. Daniela Ceccon, Huub Bouma, and Gunjan Pandya have supported the work by bringing it online through building and operating of labour law database and linking it to WageIndicator websites. Special thanks are due to the Islamabad team, which works on Decent Work Checks since 2012. The team currently comprises Iftikhar Ahmad (team leader), Ayesha Mir, Ayesha Ahmed, Shabana Malik, and Aizaz Raof Ali. Elena Golovko, co-author, contributed both to the English version and translated the Decent Work Check to Russian.

Bibliographical information

Ahmad I, Golovko E (2019) *Belarus Decent Work Check 2019*. Amsterdam, WageIndicator Foundation, February.

For an updated version in the national language, please refer to <https://mojazarplata.by/>

Copyright 2019 by WageIndicator Foundation. All rights reserved.

WageIndicator Foundation, 2019

Address: P O Box 94025, 1090 GA Amsterdam, The Netherlands

Email office@wageindicator.org.

Table of Contents

INTRODUCTION	1
Major Legislation on Employment and Labour	2
01/13 WORK & WAGES	5
02/13 COMPENSATION	9
03/13 ANNUAL LEAVE & HOLIDAYS.....	14
04/13 EMPLOYMENT SECURITY	19
05/13 FAMILY RESPONSIBILITIES.....	26
06/13 MATERNITY & WORK.....	31
07/13 HEALTH & SAFETY.....	35
08/13 SICK LEAVE & EMPLOYMENT INJURY BENEFIT	39
09/13 SOCIAL SECURITY	43
10/13 FAIR TREATMENT	49
11/13 MINORS & YOUTH.....	53
12/13 FORCED LABOUR	56
13/13 TRADE UNION.....	59
DECENT WORK QUESTIONNAIRE.....	63

INTRODUCTION

Decent Work is the type of work for which all of us aspire. It is done under conditions where people are gainfully employed (and there exist adequate income and employment opportunities); social protection system (labour protection and social security) is fully developed and accessible to all; social dialogue and tripartism are promoted and encouraged; and rights at work, as specified in ILO Declaration on Fundamental principles and Rights at Work and Core ILO Conventions, are practiced, promoted and respected.

WageIndicator Foundation has been working, since late 2007, to raise awareness on workplace rights through a unique tool, i.e., **Decent Work Check**. The Decent Work Check considers different work aspects, which are deemed important in attaining "decent work". The work makes the rather abstract Conventions and legal texts tangible and measurable in practice.

The Decent Work Check employs a double comparison system. It first compares national laws with international labour standards and gives a score to the national regulations (happy or sad face). If national regulations in a country are not consistent with ILO conventions, it receives a sad face and its score decreases (and vice versa). It then allows workers to compare their on-ground situation with national regulations. Workers can compare their own score with national score and see whether their working conditions are consistent with national and international labour standards. The Check is based on de jure labour provisions, as found in the labour legislation.

Decent Work Check is useful both for employees and employers. It gives them knowledge, which is the first step towards any improvement. It informs employees of their rights at the workplace while simultaneously enlightening employers about their obligations. Decent Work Check is also useful for researchers, labour rights organizations conducting surveys on the situation of rights at work and general public wanting to know more about the world of work. WageIndicator teams, around the world, have found out that workers, small employers and even labour inspectors are not, sometimes, fully aware of the labour law. When you are informed - being a workers, self-employed, employee, employer, policy maker, labour inspector - there is a greater possibility that you ask for your rights (as a worker), you comply with rules (as an employer) and you strive to enforce these (as a labour inspector).

The work is relevant to the challenges posed to the future of work especially the effective enforcement of legislation in financially constrained states, rise of precarious employment and measuring the impact of regulatory regimes.

Currently, there are more than 100 countries for which a Decent Work Check is available here: www.decentworkcheck.org During 2019, the team aims to include at least 10 more countries, thus taking the number of countries with a Decent Work Check to 115!

Major Legislation on Employment and Labour

1. Agreement between the Belarusian Railways and the Belarusian Trade Union of Railwaymen and Transport Builders for 2016-2018
2. Agreement between the Minsk Regional Association of Trade Unions, the Minsk Regional Executive Committee, the Republican Association of Industrial Enterprises and the Minsk Regional Agro-Industrial Union for 2018-2020 years
3. Clarification on the procedure for determining the estimated norm of working time and hourly wage rate in the Republic of Belarus, approved by Decree of the Ministry of Labour of the Republic of Belarus 18.10.1999 №133
4. Code of Administrative Offences of the Republic of Belarus 2003 (version 08.01.2018)
5. Constitution of the Republic of Belarus 1994
6. Criminal Code of the Republic of Belarus 1999 (version 18.07.2017)
7. Decree of the President of the Republic of Belarus «About additional measures of state support for families with children» 09.12.2014 №572
8. Decree of the President of the Republic of Belarus «About administrative procedures, implemented by government agencies and other organizations on the applications of citizens» 26.04.2010 №200 (version 23.07.2012)
9. Decree of the President of the Republic of Belarus «About development of pension system» 11.04.2016 №137
10. Decree of the President of the Republic of Belarus «About some issues of professional pension insurance and pension funding» 25.09.2013 №441
11. Decree of the President of the Republic of Belarus «About state holidays, public holidays and memorable dates in Belarus» 26.03.1998 №157
12. Instruction about the procedure of preparation, training, internships, mentoring, advanced training and testing of workers' knowledge of OSH, established by the Resolution of the Ministry of labour and social protection of the Republic of Belarus 28.11.2008 №175
13. Intersectoral general rules of OSH, established by the Resolution of the Ministry of labour and social protection of the Republic of Belarus 03.06.2003 №70
14. Labour Code of the Republic of Belarus 1999 (version 13.11.2017)
15. Law of the Republic of Belarus «About children's rights» 19.11.1993 №2570-XII (version 11.05.2016)
16. Law of the Republic of Belarus «About combating with human trafficking» 07.01.2012 №350-3 (version 16.12.2014)
17. Law of the Republic of Belarus «About employment of the population of the Republic of Belarus» 15.06.2006 №125-3 (version 18.07.2016)
18. Law of the Republic of Belarus «About healthcare» 18.06.1993 №2435-XII (version 16.06.2014)
19. Law of the Republic of Belarus «About healthcare» 18.06.1993 №2435-XII (version 21.10.2016)
20. Law of the Republic of Belarus «About OSH» 23.06.2008 №356-3 (version 12.07.2013)
21. Law of the Republic of Belarus «About pension system» 17.04.1992 №1596-XII

- (version 08.01.2018)
22. Law of the Republic of Belarus «About prevention of disability and rehabilitation of disabled persons» 23.07.2008 №422-3 (version 04.06.2015)
 23. Law of the Republic of Belarus «About setting and the order of minimum wage uprating» 17.07.2002 №124-3 (version 24.04.2014)
 24. Law of the Republic of Belarus «About social protection of disabled persons in the Republic of Belarus» 11.11.1991 №1224-XII (version 16.11.2010)
 25. Law of the Republic of Belarus «About state benefits to families with children» 29.12.2012 №7-3 (version 30.06.2017)
 26. Law of the Republic of Belarus «About the bases of the state youth policy» 07.12.2009 № 65-3 (version 21.10.2016)
 27. Law of the Republic of Belarus «About the Fundamentals of the State social insurance» 31.01.1995 №3563-XII (version 30.12.2011)
 28. Law of the Republic of Belarus «About the professional pension insurance» 05.01.2008 №322-3 (version 04.06.2015)
 29. Law of the Republic of Belarus «About trade unions» 22.04.1992 №1605-XII (version 13.07.2016)
 30. List of personal protective equipment, directly providing work safety, established by the Resolution of the Ministry of labour and social protection of the Republic of Belarus 15.10.2010 №145
 31. Regulation of insurance operations in the Republic of Belarus, established by Decree of the President of the Republic of Belarus 25.08.2006 №530
 32. Regulations «About the procedure and conditions of appointment, financing (transfer), the management of funds of family capital», established by Resolution of the Council of Ministers 24.02.2015 №128
 33. Regulations «About the procedure for appointment and payment of government benefits to families with children», established by Resolution of the Council of Ministers 28.06.2013 №569 (version 12.12.2017)
 34. Regulations «About the procedure for providing temporary disability benefit and maternity allowance», established by Resolution of the Council of Ministers 28.06.2013 №569 (version 12.12.2017)
 35. Resolution Ministry of health of the Republic of Belarus «About the norms of lifting and moving heavy objects by hand by women» 13.10.2010 №133
 36. Resolution of Ministry of Labour of the Republic of Belarus «About norms of lifting and moving heavy loads adolescents from 14 to 18 years» 18.12.1997 №116
 37. Resolution of Ministry of Labour of the Republic of Belarus «About the list of works, where the employment of persons under 18 years of age is prohibited» 02.02.1995 №13
 38. Resolution of the Council of Ministers «About additional leaves for working in harmful and (or) hazardous working conditions and special nature of work» 19.01.2008 №73 (version 29.07.2016)
 39. Resolution of the Council of Ministers «About granting additional leave for irregular working hours» 18.03.2008 №408 (version 30.06.2014)
 40. Resolution of the Council of Ministers «About some issues of state minimum social standards in the field of public health» 29.03.2016 №259

41. Resolution of the Council of Ministers of the Republic of Belarus «About establishment of the monthly minimum wage» 28.12.2017 №1022
42. Resolution of the Council of Ministers of the Republic of Belarus «About approval of the list of goods that cannot be paid in kind by employers» 28.04.2000 №603
43. Resolution of the Council of Ministers of the Republic of Belarus «About granting of basic leave lasting more than 24 days» 24.01.2008 №100 (version 17.02.2014)
44. Resolution of the Council of Ministers of the Republic of Belarus «About some issues of professional pension insurance» 09.10.2008 №1490
45. Resolution of the Ministry of labour and social protection of the Republic of Belarus «Some questions of compensation for working conditions in the form of reduced working time» 07.07.2014 №57
46. Resolution of the Ministry of labour and social protection of the Republic of Belarus «About estimation of normal working hours for 2018» 16.11.2017 № 73
47. Resolution of the Ministry of labour and social protection of the Republic of Belarus «About the establishment of the list of light work, which can perform under the age of fourteen to sixteen years» 15.10.2010 №144 (version 22.07.2014)
48. Resolution of the Ministry of labour and social protection of the Republic of Belarus «About the establishment of the list of heavy jobs and jobs with harmful and (or) dangerous working conditions, on which it is prohibited to attract women to the labour» 12.06.2014 №35
49. Resolution of the Ministry of labour and social protection of the Republic of Belarus «About the establishment of the list of light work, which can perform under the age of fourteen to sixteen years» 15.10.2010 №144 (version 22.07.2014)
50. Rules of investigation and registration of accidents at work and occupational diseases, established by the Resolution of the Ministry of labour and social protection of the Republic of Belarus 15.01.2004 №30
51. Statute of the Department of State Labour Inspection of the Ministry of Labour and Social Protection, established by the Resolution of the Council of Ministers of the Republic of Belarus 29.07.2006 №959
52. Statute of the National Council of Labour and Social Affairs, established by Decree of the President of the Republic of Belarus 05.05.1999 №252

01/13 WORK & WAGES

ILO Conventions

Minimum wage: Convention 131 (1970)

Regular pay & wage protection: Conventions 95 (1949) and 117(1962)

Belarus has ratified the Convention 95 only.

Summary of Provisions under ILO Conventions

The minimum wage must cover the living expenses of the employee and his/her family members. Moreover, it must relate reasonably to the general level of wages earned and the living standard of other social groups. Wages must be paid regularly on a daily, weekly, fortnightly or monthly basis.

Regulations on work and wages:

- Constitution of the Republic of Belarus 1994
- Labour Code of the Republic of Belarus 1999 (version 13.11.2017)
- Law of the Republic of Belarus «About setting and the order of minimum wage uprating» 17.07.2002 №124-3 (version 24.04.2014)
- Code of Administrative Offences of the Republic of Belarus 2003 (version 08.01.2018)
- Resolution of the Council of Ministers of the Republic of Belarus «About establishment of the monthly minimum wage» 28.12.2017 №1022
- Resolution of the Council of Ministers of the Republic of Belarus «About approval of the list of goods that cannot be paid in kind by employers» 28.04.2000 №603

Minimum Wage

Minimum wage is a state minimum social standard in the field of remuneration. The minimum wage is determined as a sum per hour and per month. The monthly minimum wage is set at the national level by the Council of Ministers of the Republic of Belarus. The minimum wage should be indexed every year. Minimum wages (monthly and hourly) is applied taking into account hours worked.

The monthly minimum wage is determined by taking into account:

- economic opportunities of state and employers;
- needs of workers in material goods and services;
- employment rate and operational efficiency;
- forecast of growth of consumer prices;
- level of nominal average monthly wage in the country.

The collective agreement may establish higher rate of the monthly minimum wage than the wage specified as national minimum wage.

The hourly minimum wage is determined by dividing the monthly minimum wage to the rate of the ratio of calculation working time of the calendar year and the number of months in the calendar year. The employer is obliged to review the rate of hourly minimum wage in the case of amendment in the monthly minimum wage.

If the employee receives wages lower than the minimum wage, the employer must make the additional payment to compensate the difference.

Payment of salary not in full amount can lead an administrative fine in the amount of 4-20 basic values and for legal entity - up to 100 basic values. The employee has the right to complain to the Labour Inspection or to sue.

Sources: §4-6 of the Law of the Republic of Belarus «About setting and the order of minimum wage uprating» 17.07.2002 №124-3; §56, 59 of the Labour Code; Resolution of the Council of Ministers of the Republic of Belarus «About establishment of the monthly minimum wage» 28.12.2017 №1022; § 9.19 of the Code of Administrative Offences

Regular Pay

According to the Constitution, employees are guaranteed a fair remuneration for the economic results of work in accordance with the quantity, quality and social significance, but not below the level of providing them and their families an independent and dignified existence.

Salary is the fixed remuneration for performance of work (for a calendar month) based on and appropriate to the professional skills, difficulty, quantity and quality of labour and working conditions for time actually worked and periods included in the working hours.

State guarantees of wages consists of:

1. minimum wage;
2. minimum rate of the first grade of workers in Unified tariff scale (for budgetary sphere);
3. republican tariff wage rates;
4. growth of remuneration for non-standard working conditions;
5. actuality and indexation of wage;
6. limits of deductions from wage;
7. control of timely payment of wage;
8. responsibility of employers for violating the collective agreements, employment contract.

Indexation of wages is necessary due to inflation taking into account inflation rate. There are two variants of the wage system in the Republic of Belarus: unified tariff scale (for budgetary sphere) and others wage system (commercial organizations). The unified tariff scale includes grades of workers (now it is 27 grades) and correction coefficients (from 3.5 to 1). The first grade of workers is meant the unskilled work and the lowest payment. Commercial organizations may use unified tariff scale or its elements too. Also, in commercial organizations, the employer establishes the tariff rate of the first grade under the agreement of the trade union. The state tariff rate of the first grade after denomination is 34 BYR.

Employee remuneration is based on hourly and monthly wage (salary), which is established by collective agreement, act of employer, act of Government of the Republic of Belarus (for budgetary sphere).

While the minimum wage is determined under the law, the maximum limit is not specified under the law. There are higher wages for heavy work, work in harmful or dangerous working conditions and in the territory of radioactive contamination.

Wages must be paid at least twice a month (once every half month) on a day established by collective agreement or employment contract. If a payment day coincides with a non-working day, wages must be paid on the day before.

Wages must be paid in legal tender, i.e., Belarusian rubles. Payment of wages can be made through bank transfer or money order if worker has given written consent for that. With the consent of the employee, it is permitted to replace cash payment in whole or in part by payment in kind (mixed form of payment). Payment in kind instead of cash should be suitable for personal use and beneficial for the employee and his family. Payment in kind may not use the goods, the list of which is approved by the Resolution of the Council of Ministers 28.04.2000 № 603.

On payment of wages, employer must also inform the employees about gross wages, total size and ground for deductions and the net amount of wages to be paid. Deductions from an employee's wages can be made only for cases specified by legislation. Employers are further allowed to make deductions from a worker's wage to retrieve/recover the sum of money owed by the employee to the employer. It happens in the recovery of:

- advances of pay;
- amount given to an employee for travel or other expenses which was not spent;
- sums that were overpaid to the employee due to an accounting error;
- holiday/annual leave pay, if employment terminates and worker has already taken leave in excess of his accrued entitlement at the point of contract termination;
- compensation for damage caused through the fault of the employee to the employer, in an amount not exceeding his average monthly earnings.

The total amount of deductions at each payment of wages cannot exceed 20 percent, and in the cases where the worker is subject to more than one attachment order, the maximum total deduction is 50 percent of the wages. Where the employee's wages are attached for specific reasons, the deduction can rise to as high as 70% (for example, alimony for minor children).

Violation of the order and terms of payment of wages by the employer is punishable by a fine in the amount of 4-20 basic values and for legal entity - up to 100 basic values.

Sources: §42 of the Constitution; §56-63, 65, 73-75, 80, 107-109 of the Labour Code; Resolution of the Council of Ministers of the Republic of Belarus «About approval of the list of goods that cannot be paid in kind by employers» 28.04.2000 №603; § 9.19 of the Code of Administrative Offences

02/13 COMPENSATION

ILO Conventions

Compensation overtime: Convention 01 (1919)

Night work: Convention 171 (1990)

Belarus has not ratified the Conventions 01 & 171.

Summary of Provisions under ILO Conventions

Working overtime is to be avoided. Whenever it is unavoidable, extra compensation is at stake - minimally the basic hourly wage plus all additional benefits you are entitled to. In accordance with ILO Convention 1, overtime pay rate should not be less than one and a quarter times (125%) the regular rate.

Night work means all work which is performed during a period of not less than seven (07) consecutive hours, including the interval from midnight to 5 a.m. A night worker is a worker whose work requires performance of a substantial number of hours of night work which exceeds a specified limit (at least 3 hours). Convention 171 requires that night workers be compensated with reduced working time or higher pay or similar benefits. Similar provisions are found in the Night Work Recommendation No. 178 of 1990.

If a worker has to work on a national/religious holiday or a weekly rest day, he/she should be entitled to compensation. Not necessarily in the same week, provided that the right to a paid compensation is not.

If a worker has to work during the weekend, he/she should thereby acquire the right to a rest period of 24 uninterrupted hours instead. Not necessarily in the weekend, but at least in the course of the following week. Similarly, if a worker has to work on a public holiday, he/she must be given a compensatory holiday. A higher rate of pay for working on a public holiday or a weekly rest day does not take away the right to a holiday/ rest.

Regulations on compensation:

- Labour Code of the Republic of Belarus 1999 (version 13.11.2017)
- Resolution of the Ministry of labour and social protection of the Republic of Belarus «Some questions of compensation for working conditions in the form of reduced working time» 07.07.2014 №57
- Resolution of the Ministry of labour and social protection of the Republic of Belarus «About estimation of normal working hours for 2018» 16.11.2017 № 73
- Clarification on the procedure for determining the estimated norm of working time and hourly wage rate in the Republic of Belarus, approved by Decree of the Ministry of Labour of the Republic of Belarus 18.10.1999 №133

Overtime Compensation

The normal working hours are 40 hours per week. The Labour Code however provides exceptions and allows for reduced working hours for workers with disabilities I and II group (35 hours), workers engaged in harmful and hazardous working conditions (35 hours), children 14-16 years old (23 hours/11.5 hours if combines work with school/during school year), and young persons 16-18 years old (35 hours/17.5 hours if combines work with school/during school year), workers in the territory of radioactive contamination (35 hours).

The list of professions with harmful and hazardous working conditions, where workers have reduced working hours are established by Resolution of the Ministry of labour and social protection of the Republic of Belarus 07.07.2014 № 57. For certain categories of workers (teachers, doctors, etc.), reduced working hours are set by special legislation.

The amount of hours of work scheduled shifts during a working week must comply with estimated normal working hours for each calendar year, which is set by government. For 2018, estimated normal working hours are for a five-day working week (40 hours per day with Saturday and Sunday as weekends) - 2016 hours; for a six-day working week (40 hours per day with Sunday as weekends) - 2022 hours. The way of counting is available here: <http://calendar.by/procal.php?year=2017>.

Overtime work is the work in excess of normal hours of work. As a rule, overtime work is forbidden. Nevertheless, there are some exceptions, established by legislation. Work performed in excess of the working hours is not recognised as overtime in following cases:

- on the initiative of the employee without an offer, order or with consent of the employer;
- employees with part-time work within a full working day (shift), the full working week;
- part-time employees have the same employer as well as the other employer in excess of the time the main work;
- person who works at home.

As a rule, overtime work is allowed in the presence of worker's consent. In connection with the following cases (mainly a state of emergency), no prior consent from employee is required:

- prevention of disasters, industrial accidents, immediate elimination of their consequences or effects of a natural disaster, and provision of emergency medical aid;
- removing of unforeseen circumstances that disrupt functioning of the centralized systems of water supply, gas supply, heating, lighting, sewerage, transport, communications.

Overtime work must not exceed for each employee 10 hours per week and 180 hours per year. The duration of daily work, taking into account overtime should not exceed 12 hours.

Overtime work is not permitted for:

- pregnant women;
- women with children under 3 years;
- minors (under 18 years);
- employees, who study at secondary or vocational schools for working during the lessons;
- worker, who is exempt from overtime work in accordance with the conclusion of the medical committee;
- other categories of workers, as specified by law.

Women with children from 3 to 14 years (disabled children - under 18) may work overtime only with their consent. Disabled persons can work overtime only with their consent, only when such activities are not prohibited by their individual rehabilitation program.

For each hour of overtime work there is the additional payment in rates: employees with piecework wages - not lower than double the piece rates; employees with hourly wages - not lower than double (200% of) the normal hourly wage rates (salaries). The specific amount of additional payments is established by acts of government (for budgetary sphere) or employment contract, act of employer (for commercial organizations).

There is additional day off without pay for overtime work with the employee's consent instead of higher wages. One day of rest is provided for eight hours of overtime. Thus, the overtime work is compensated either by an extra day of vacation or by payment of above referred higher wages.

Sources: §69, 112-114, 119-122, 124, 263, 276 of the Labour Code; Resolution of the Ministry of labour and social protection of the Republic of Belarus «Some questions of compensation for working conditions in the form of reduced working time» 07.07.2014

№57; Resolution of the Ministry of labour and social protection of the Republic of Belarus «About estimation of normal working hours for 2018» 16.11.2017 № 73

Night Work Compensation

Night work is a working time between 22:00 and 06:00. The shift is considered to be night shift, if more than 50% of the time falls between these hours.

Working time at night is reduced by one hour, except for those who are already engaged in reduced working time or work in continuous production or make a special contract for night work.

Night work is prohibited for pregnant women and minors (under 18 years). Women who have children under 3 years of age may work at night only with their consent. Disabled persons can work at night only with their consent, only when such activities are not prohibited by their individual rehabilitation program. Women with children from 3 to 14 years (disabled children - under 18) may work at night only with their consent.

Labour legislation fixes minimum increase at the level of 20% of the hourly wage rate (salary) for each hour of night work (120% of the regular hourly rate). The specific amount of additional payments is established by acts of government (for budgetary sphere) or collective agreement, act of employer (for commercial organizations).

Sources: §70, 117, 263, 276 of the Labour Code

Compensatory Holidays / Rest Days

As a rule, working on a weekly rest or public holidays is prohibited. The work during the weekend and public holidays on the proposal of the employer is permitted only with the consent of the employee or by the employee's initiative with the consent of the employer. A worker can be asked to work only 12 weekly rest days in a year.

Working on weekends and public holidays may be allowed without the permission of worker in following cases:

- prevention of disasters, industrial accidents, immediate elimination of their consequences or effects of a natural disaster;
- removing of unforeseen circumstances that disrupt functioning of the centralized systems of water supply, gas supply, heating, lighting, sewerage, transport, communications;
- emergency medical aid.

For each hour of working on weekends and public holidays, there is the additional payment in rates: employees with piecework wages - not lower than double the piece rates; employees with hourly wages - not lower than double the hourly wage rates (salaries). The specific amount of additional payments is established by acts of

government (for budgetary sphere) or employment contract, act of employer (for commercial organizations).

Working on a weekly rest or public holidays is not permitted for:

- pregnant women;
- women with children under 3 years;
- minors (under 18 years).

Women with children from 3 to 14 years (disabled children - under 18) may work on a weekly rest or public holidays only with their consent.

There is provision for an additional day off without pay for work on weekends with the employee's consent instead of higher wages. However, if work on a public holiday was carried out over the monthly norm of working time, it can be compensated both by an extra day of vacation and higher wages.

Sources: §69, 142-145, 263, 276 of the Labour Code

Weekend/Public Holiday Work Compensation

For each hour of work on weekends and public holidays, there is the additional payment in rates: employees with piecework wages - not lower the double piece rates; employees with hourly wages - not lower than double the hourly wage rates (salaries). The specific amount of additional payments is established by acts of government (for budgetary sphere) or employment contract, act of employer (for commercial organizations).

There is provision for an additional day off without pay for work on weekends with the employee's consent instead of higher wages. However, if work on a public holiday was carried out over the monthly norm of working time, it can be compensated both by an extra day of vacation and higher wages.

Sources: §69 of the Labour Code

03/13 ANNUAL LEAVE & HOLIDAYS

ILO Conventions

Convention 132 (1970) on Holidays with Pay Convention Conventions 14 (1921), 47 (1935) and 106 (1957) for weekly rest days. In addition, for several industries, different Conventions apply.

Belarus has ratified the Conventions 14, 47 & 106 only.

Summary of Provisions under ILO Conventions

An employee is entitled to at least 21 consecutive days of paid annual leave. National and religious holidays are not included. Collective agreements must provide at least one day of annual leave on full remuneration for every 17 days on which the employee worked or was entitled to be paid.

A worker should be entitled to paid leave during national and officially recognized public holidays.

Workers should enjoy a rest period of at least twenty-four consecutive hours in every 7-day period, i.e., a week

Regulations on annual leave and holidays:

- Labour Code of the Republic of Belarus 1999 (version 13.11.2017)
- Resolution of the Council of Ministers of the Republic of Belarus «About granting of basic leave lasting more than 24 days» 24.01.2008 №100 (version 17.02.2014)
- Resolution of the Council of Ministers «About granting additional leave for irregular working hours» 18.03.2008 №408 (version 30.06.2014)
- Resolution of the Council of Ministers «About additional leaves for working in harmful and (or) hazardous working conditions and special nature of work» 19.01.2008 №73 (version 29.07.2016)
- Decree of the President of the Republic of Belarus «About state holidays, public holidays and memorable dates in Belarus» 26.03.1998 №157

Paid Vacation

Annual leave is intended for the employee to rest and fulfil other social needs. There are two types of leaves according to the Labour Code: labour and social. Labour leaves are divided into basic and additional. Maternity and parental leaves, in connection with the accident at the Chernobyl, education or other good reasons of personal and family matters are social leaves.

Labour leave is intended for the employee to rest, restore his working capacity, strengthen his health and fulfil other personal needs. Employees are granted labour leave with retention of their job (position) and average earnings.

The length of basic annual leave is 24 calendar days. Public holidays are not included in this. The list of professions with extended basic annual leave is established by the Resolution of the Council of Ministers 24.01.2008 №100. For example, workers under 18 years and disabled people have right to get 30 calendar days of annual leave.

The annual additional leave is granted on the following grounds:

- 1) hazardous and difficult working conditions (length depends on class of harmful conditions);
- 2) special nature of work (length depends on profession);
- 3) irregular working hours (up to 7 calendar days);
- 4) extended length of service (up to 3 calendar days);
- 5) encouragement of worker.

The order of providing workers with additional leaves is stipulated by special bylaw, such as the Resolution of the Council of Ministers 18.03.2008 №408, collective agreement, act of employer and employment contract.

In case of absence from work without good reason, the employer may reduce duration of the labour leave by the number of days of absence from work. Nevertheless, the duration of the labour leave must not be less than the basic annual leave (24 calendar days).

Part of the annual leave in excess of 21 calendar days may be replaced by monetary compensation by agreement between employer and employee. It is forbidden to replace by monetary compensation the basic annual leave for pregnant women, minors, disabled people, workers in the territory of radioactive contamination and those, who get leave in advance. The same rule is for annual additional paid leave to employees engaged in work with harmful and (or) dangerous working conditions. According to a draft 2018 law, workers would have the right get monetary compensation for vacation not only in general, but also in case of division into parts. The draft law further allows full-time working for part-time employees while they are getting leave from the main working place.

The annual leave is fully paid leave and average earnings for annual leave is paid not later than two days before it.

The right to get this leave connects with the length of service at the certain organisation. Employee may get the annual basic paid leave for the first year of operation after six months of continuous work for the employer. Pro-rata leave is allowed in case the total working period is less than one year however it cannot be less than 14 calendar days. Before the expiration of six months of continuous work, annual leave at the request of the employee must be provided to:

- women - before the maternity leave or immediately after it;
- minors (under 18 years);
- women with two or more children under the age of fourteen (disabled child under the age of eighteen years);
- workers recruited by transfer;
- persons having a second job;
- veterans of The Great Patriotic War;
- employees, who get an education;
- other categories by law.

Annual paid leave for the second and next years of working may be given at any time of the year in accordance with vacation schedule. It is established for the calendar year no later than January 5 or other period specified by the collective agreement, act of employer agreed with the trade union, and communicated to all employees. The Labour Code and other special laws have a list of categories of workers, who may get labour leaves at convenient time for them or in a certain period of year, for example minors (under 18 years), veterans of The Great Patriotic War, blood donors, women with two or more children under the age of fourteen (disabled child under the age of eighteen years), and teachers. Employee must be notified about the time of the leave no later than 15 calendar days before its beginning.

It is prohibited not to grant annual paid leave for two years in a row. In exceptional cases where the granting of leave in the current working year may adversely affect the production process, it is allowed with the consent of the employee to transfer part of leave to the next working year. The rest of the leave for current working year must not

be less than 14 calendar days. Minors and workers in hazardous and difficult working conditions or special nature of work must receive labour leaves in time.

Annual paid leave should be extended or postponed to another date, taking into account the wishes of the employee, in the following cases:

- temporary disability;
- maternity leave;
- public duties;
- leave for education;
- delay in holiday payment;
- other cases by law, collective agreement, parties' agreement.

The employer has the right to prematurely give labour leave in the event of an unexpected suspension of work due to an accident, natural disaster, insufficient power resources, raw materials and other exceptional and previously unforeseen circumstances. Labour leave may be divided into 2 parts by agreement between parties of the labour contract. One part of this leave should not be less than 14 calendar days. Recalls from the labour leave are allowed by the act of the employer with the employee's consent. Recalls from the labour leave are prohibited for minors and workers in hazardous and difficult working conditions or special nature of work.

Sources: §149-181 of the Labour Code; Resolution of the Council of Ministers of the Republic of Belarus «About granting of basic leave lasting more than 24 days» 24.01.2008 №100; Resolution of the Council of Ministers «About granting additional leave for irregular working hours» 18.03.2008 №408; Resolution of the Council of Ministers «About additional leaves for working in harmful and (or) hazardous working conditions and special nature of work» 19.01.2008 №73

Pay on Public Holidays

According to the legislation, following are the non-working holidays in Belarus:

January 1 - New Year;

January 7 - (Orthodox) Christmas;

March 8 - Women's Day;

May 1 - Labour Day;

May 9 - Victory Day;

according to the calendar of the Orthodox Easter - Radunica (in 2018 -April 17);

July 3 - Independence Day of the Republic of Belarus (Republic Day);

November 7 - October Revolution Day;

December 25 - (Catholic) Christmas.

Workers may have to work during public holidays and non-working days on work the suspension of which is not possible due to production or technical reasons, the public service work and urgent repair and loading and unloading operations.

For each hour of working on public holidays, there is the additional payment in rates: employees with piecework wages - not lower than double the piece rates; employees with hourly wages - not lower than double the hourly wage rates (salaries). The specific amount of additional payments is established by acts of government (for budgetary sphere) or employment contract, act of employer (for commercial organizations).

If work on a public holiday was carried out over the monthly norm of working time, it can be compensated both by an extra day of vacation and higher wages.

Sources: §69 and 147 of the Labour Code; Decree of the President of the Republic of Belarus «About state holidays, public holidays and memorable dates in Belarus» 26.03.1998 №157

Weekly Rest Days

Weekly rest day depends on the working-week adopted by an enterprise. In a five-day working week, employees are given two days-off. There is a provision for one day-off in a six-day working week. A common holiday is Sunday. Usually two days off are provided in a row. In any case, the weekly rest period must not be less than 42 hours.

An employee on a business trip gets the days-off in accordance with the internal regulations of the employer. Weekends at organisations, where suspension in work is not possible, are given on different days of the week alternately to each group of employees. The weekly rest days for shops, consumer services, theaters, museums, etc. are set by employer taking into account recommendations of local authorities.

Sources: §136-141 of the Labour Code

04/13 EMPLOYMENT SECURITY

ILO Conventions

Convention 158 (1982) on employment termination

Belarus has not ratified the Convention 158.

Summary of Provisions under ILO Convention

The questions under this section measure the security or even flexibility or precariousness of an employment relationship. Although these are not clearly mentioned in a single convention (severance pay and notice requirement are provided in the Termination of Employment Convention No. 158) however, the best practices in the field require that employees be provided with a written contract of employment; workers on fixed term contracts should not be hired for tasks of permanent nature; a reasonable probation period (ideally lower than or equal to 6 months) may be followed to assess the suitability of an employee; a period of notice must be specified in an employment contract before severing the employment relationship; and workers be paid severance allowance on termination of employment relationship.

A contract of employment may be oral or written however workers should be provided with a written statement of employment at the start of their employment.

Fixed Term Contract workers must not be hired for permanent tasks as it leads to precarious employment.

A reasonable probation period must be allowed to let a worker learn new skills. A newly hired employee may be fired during probation period without any negative consequences.

A reasonable notice period, depending on the length of service of an employee, may be required before an employer may sever the employment relationship.

Employers may be required to pay a severance allowance on termination of employment (due to redundancy or any other reason except for lack of capacity or misconduct).

Regulations on employment security:

- Labour Code of the Republic of Belarus 1999 (version 13.11.2017)
- Resolution of the Ministry of labour and social protection of the Republic of Belarus «About the establishment of the list of light work, which can perform under the age of fourteen to sixteen years» 15.10.2010 №144 (version 22.07.2014)

Written Employment Particulars

Labour Code has provisions with regard to the written employment contracts. Labour contracts, in accordance with labour law, may be indefinite term or fixed term, about single or multiple jobs. As said above, employment contracts must be drawn up in writing and in duplicate, with one copy to each party. In 2018, according to the draft law distance working also requires the conclusion of the employment contract.

The employment contract must contain the following information and conditions:

1. full details of the parties;
2. workplace details;
3. job title and job description;
4. rights and obligations of contracting parties;
5. term of the employment contract (for fixed term contracts);
6. working time and rest time regime;
7. conditions of payments.

The employment contract may contain additional conditions about probation, the period of compulsory work after education (if the training was carried out at the expense of the employer) and other conditions not worsening the position of the employee, compared with the law and the collective agreement. An employer has no right to demand an employee to perform work, which is not required under an employment contract, except in cases stipulated by legislative acts.

As a rule, the employment contract may be changed only with the consent of the parties. In the event of changes in legislation, conditions of employment contract must be brought into conformity with labour legislation. An employment contract can be concluded with a citizen who has reached the age of 16 years. With the written consent of a parent, guardian or adoptive parent, employment contract may be concluded with citizens aged 14 years, if this work does not harm child's health, moral development and education. The list of jobs, which are allowed for children 14-16 years old are determined by Resolution of the Ministry of labour and social protection of the Republic of Belarus 15.10.2010 №144.

The beginning of the employment contract is the first day of work as defined by the parties. An employment contract is considered to exist once a worker starts working even if no written contract was signed beforehand. In such cases, employer is required to sign a written contract within three days after the employee or trade union raises a demand to do it.

To conclude an employment contract, following documents are required:

- passport (other identification card);
- military registration documents (if necessary);
- work experience documents;
- educational qualification and training credentials;
- assigned to work in respect of the reservation (for certain categories of workers);
- individual rehabilitation program (for disabled people);
- declaration of income and property (if necessary);
- insurance certificate (if necessary);
- medical certificate (if necessary);
- other documents by legislation.

It is prohibited to claim under an employment contract documents, that are not provided by the legislation.

Sources: §20, 21, 25, 26 and 272 of the Labour Code; Resolution of the Ministry of labour and social protection of the Republic of Belarus «About the establishment of the list of light work, which can perform under the age of fourteen to sixteen years» 15.10.2010 №144

Fixed Term Contracts

The Labour Code provides for both fixed term and indefinite contracts. If an employment contract does not clearly state that it is for fixed term, it is considered to be an indefinite term contract.

The maximum length of a single fixed term contract is 60 months (5 years). According to the Labour Code, fixed-term employment contract is also concluded in the following cases:

- temporary job (up to 2 month);
- certain work (if completion time cannot be determined accurately);
- execution of the duties of the absent employee;
- seasonal work;
- employment to the individual entrepreneur or micro organization.

Fixed-term employment contract can be terminated by following reasons: expiry of its term, completion of work, coming back to job of absent employee, end of the season.

Fixed-term employment contract can be terminated prematurely at the request of the employee due to illness, disability, other good reasons that interferes with working of the employee or employer's violation of labour legislation, conditions of the collective agreement or the employment contract. Moreover, in the situation of temporary job up to 2 month or execution of the duties of the absent employee up to 4 months, workers have the right to terminate the employment contract by notifying the employer in writing within three days.

If a worker keeps working on the expiry of a fixed term contract, it is deemed to be contract for indefinite duration.

Sources: §17, 38-41, 292 and 294 of the Labour Code

Probation Period

Probation period is established by the employment contract to verify the conformity of qualifications for work. The maximum length of probation period is 3 months. The probation period is suspended for the period, when the employee is actually absent from work (including temporary disability). The absence of probation term in an employment contract means that the employee is hired without it. An employment contract must clearly specify the probationary period.

The probation is prohibited in cases:

1. minors (under 18 years);
2. young workers, persons, who graduated with secondary professional education or higher education;
3. disabled people;
4. temporary and seasonal workers;
5. when transferred to work in another locality or to another employer;
6. when applying for a job through competition, the results of the elections;
7. in other cases, stipulated by law.

Either party may terminate the employment contract during the probation period notifying the other party in writing within three days. Employer is obliged to give reasons of discharge. Employee has the right to challenge such dismissal.

If the probation period has expired and neither of the parties has not notified about the termination of the employment contract, the employee is considered to have passed the probationary period.

Sources: §28, 29, 287, 293 and 300 of the Labour Code

Notice Requirement

In accordance with the Labour Code, grounds for termination of the employment contract are:

1. the parties' agreement;
2. expiration of the employment contract;
3. employer's initiative;
4. employee's initiative;
5. transfer of an employee at his request or with his consent to work for another employer or transfer to an elected job;

6. refusal of the employee to be transferred to work in another locality together with the employer or to continue working due to changes of conditions of the employment contract / change of ownership / reorganization of the enterprise;
7. owing to circumstances beyond parties' control;
8. termination of an employment contract during probation period.

An employment contract (including fixed-term employment contract) may be terminated at any time by agreement of the parties. The employee may leave job by his own initiative after serving one month written notice. The collective agreement is allowed to establish a shorter term. The employer may also agree to an earlier discharge.

Under the circumstances, excluding or significantly impeding the continuation of the work (health, retirement age, the radioactive contamination of other cases), as well as in cases of violation by the employer of labour legislation, collective agreement, and the employment contract, the employer is obliged to terminate the employment contract in time, that is specified in a statement of the employee.

Fixed-term employment contract can be terminated by following reasons: expiry of its term, completion of work, coming back to job of absent employee, end of the season. Fixed-term employment contract can be terminated prematurely at the request of the employee due to illness, disability, other good reasons that interferes with working of the employee or employer's violation of labour legislation, conditions of the collective agreement or the employment contract.

Moreover, in the situation of temporary job up to 2 month or execution of the duties of the absent employee up to 4-month workers have the right to terminate the employment contract by notifying the employer in writing within three days.

Either party may terminate the employment contract during the probation period notifying the other party in writing within three days.

Employment contract may be terminated by the employer in the following cases:

- 1) liquidation of company;
- 2) downsizing;
- 3) mismatch of employee to job because of state of health;
- 4) mismatch of employee to job because of insufficient qualifications;
- 5) repeated non-performance of job duties in the presence of disciplinary penalty;
- 6) absence from work without justifiable reasons for more than 3 hours or during the whole workday;
- 7) absence from work for more than four consecutive months due to temporary disability (unless it relates to pregnancy or occupational injury)
- 8) drinking alcohol, use of narcotic drugs, psychotropic substances, their analogues, toxic substances during working hours or in the workplace / being at work in state of intoxication;
- 9) on-the-job embezzlement;
- 10) violation of safety rules.

In the case of impending dismissal in connection with the liquidation of the organization or staff reduction (redundancy), employees are warned by the employer in written no later than two months before the dismissal. The employer has right (with worker's consent) to replace warning of the forthcoming discharge by compensation in the amount of two months average earnings. In this case, if the initiative in achieving such an agreement comes from the employer after the employee's warning of the impending dismissal, compensation will be paid in proportion to period remaining until the end of the two-month notice period. The order about the disciplinary discharge is delivered to employee (with his/her signature) in five days (not counting time of the disease and vacation).

There are reasons of dismissal owing to circumstances beyond parties' control in the Labour Code:

- a) conscription into the military;
- b) where a former employee (earlier dismissed) has been reinstated by court's decision;
- c) violation of the rules of hiring;
- d) non-election to the job;
- e) administrative or criminal punishment which makes the continuation of work impossible;
- f) death of employer (natural person) or an employee;
- g) restrictions on particular activities which makes the continuation of work impossible.

Sources: §29, 35, 37, 38, 40-44 and 199 of the Labour Code

Severance Pay

Severance pay is paid in amount of two-week average earnings at the dismissal by following reasons (without reference to the length of service):

1. refusal of the employee to be transferred to work in another locality together with the employer;
2. refusal of the employee to continue working due to changes of conditions of the employment contract / change of ownership / reorganization of the organization;
3. mismatch of employee to job because of state of health;
4. mismatch of employee to job because of insufficient qualifications;
5. conscription into the military;
6. where a former employee (earlier dismissed) has been reinstated by court's decision;
7. violation by the employer of labour legislation, collective agreement, employment contract.

For some categories of workers legislation establishes payment of the minimum compensation for the termination of fixed-term employment contract in case of violation by the employer of labour legislation, collective agreement, employment contract.

In the case of liquidation of company or downsizing, there is the severance pay in amount of not less than three average monthly earnings. The same rate of severance pay is established at termination of the employment contract with the head of the organization, his deputies and the chief accountant in connection with the change of the ownership of property. Persons having a second job do not have right to get severance pay.

Severance pay for temporary or seasonal workers is paid in cases:

- suspension of work for more than one week because of industrial reasons or reducing the amount of work - weekly average earnings;
- conscription into the military - two-week average earnings;
- violation by the employer of labour legislation, collective agreement, employment contract - two-week average earnings.

Wives (husbands) of servicemen get severance pay equal to two months average earnings if their dismissal is in connection with the transfer of the wife (husband) to serve in another area. Other cases of providing severance pay are stipulated by other legislative acts and collective agreements. The amount severance pay may be increased by the collective agreement or the act of employer.

Sources: §48, 295, 302, 340 and 341 of the Labour Code

05/13 FAMILY RESPONSIBILITIES

ILO Conventions

Convention 156: Workers with Family Responsibilities Convention (1981)
Recommendation 165: Workers with Family Responsibilities (1981)

Belarus has not ratified the Conventions 156 & 165.

Summary of Provisions under ILO Convention

Paternity leave is for the new fathers around the time of childbirth and is usually of shorter duration.

Recommendation (No. 165) provides for parental leave as an option available to either parent to take long leave of absence (paid or unpaid) without resigning from work. Parental leave is usually taken once the maternity and paternity leave have been exhausted. For working parents, laws may define the portion of parental leave that has to be compulsorily taken by fathers or mothers.

Flexible Work Option for Parents / Work-Life Balance Recommendation 165 asks the employers to look into the measures for improving general working conditions through flexible work arrangements.

Regulations on family responsibilities:

- Labour Code of the Republic of Belarus 1999 (version 13.11.2017)
- Law of the Republic of Belarus «About state benefits to families with children» 29.12.2012 №7-3 (version 30.06.2017)
- Decree of the President of the Republic of Belarus «About administrative procedures, implemented by government agencies and other organizations on the applications of citizens» 26.04.2010 №200 (version 23.07.2012)
- Regulations «About the procedure for appointment and payment of government benefits to families with children», established by Resolution of the Council of Ministers 28.06.2013 №569 (version 12.12.2017)
- Decree of the President of the Republic of Belarus «About additional measures of state support for families with children» 09.12.2014 №572
- Regulations «About the procedure and conditions of appointment, financing (transfer), the management of funds of family capital», established by Resolution of the Council of Ministers 24.02.2015 №128

Paternity Leave

Belarus legislation does not provide for special paternity leave. Nevertheless, employee has right to make a written request to get unpaid leave during a calendar year not more than 30 calendar days for family reasons.

According to the state social program 'Health of population and demographic safety of the Republic of Belarus' for 2016 - 2020, the Government plans to introduce obligatory social paternity leave into practice. In 2018, according to the draft law a father or stepfather may get 14 days of the unpaid leave during six months after the childbirth.

Sources: §49 and 190 of the Labour Code

Parental Leave

The parental leave is available for workers with children up to the age of three years (1095 days). The parental leave is available for parents, guardians, stepparents, adoptive parents or other relatives who actually take care of a child. The parental leave is provided at the request of the employee. During this leave, parents are eligible for allowances and compensation. The parental leave is a family entitlement, thus either parent may take all the leave or they may divide the leave in parts.

The parental leave is interrupted in the event of the maternity leave and continues after its completion. If there are two or more children (under three years of age) in a family, parental leave is granted to one person.

During the period of the parental leave parent may work on the main (in another profession, position) or another job part-time (less than half of the monthly norm of working time).

In accordance with the Law of the Republic of Belarus «About state benefits to families with children», parents, adoptive parents or guardians of a child under the age of 6 months have right to get the childbirth benefit. The rates of the childbirth benefit are:

- for the first child - ten times of the maximum value of the living wage for last two quarters;
- for the second and subsequent children - fourteen times of maximum value of the living wage for last two quarters.

Since 2017 there are additional conditions for assignment of childbirth benefit: temporary resident of Belarus must take part in compulsory insurance for at least 6 months; citizens of Belarus in case of birth abroad: accommodation for one of parents in the country must be at least 6 months.

Since 01.08.2018 till 31.10.2018 living wage is 213.67 BYR. Following renewals of rates of the living wage will be available at the site of the Ministry of Labour and Social Protection: <http://mintrud.gov.by/>.

The childbirth benefit will be not assigned if a child is not registered at the place of permanent or temporary residence in the Republic of Belarus by the day of applying for this benefit. If a child died by the day of applying for the childbirth allowance, it would be not assigned. These norms apply for children, who were born after July 1, 2017.

In addition, child allowance is paid until the child attains the age of 3 years. The rates are as follows:

- for the first child - 35% of the average monthly wage;
- for the second and subsequent children - 40% of the average monthly wage;
- for a disabled child - 45% of the average monthly wage.

Recalculation of child allowance (until the child attains the age of 3 years) is carried out twice a year: February 1 and August 1. It is possible to get child allowance in the place of permanent or temporary residence. In case of reduction of the average monthly wage in the country, from which the child allowance is calculated, its rate will be maintained at the same level.

In accordance with data of the Ministry of Finance of the Republic of Belarus the average wage is 953.7 BYR (July 2018).

Since 2017, other relatives of a child up to 3 years may receive the child allowance if they are sole proprietors, notaries, lawyers, artisans, persons who engage in agro-ecotourism and if they suspend their activities in connection with the care of a child. Unconditional right to get child allowance is provided for mother (stepmother) of a child. Father (stepfather) may get that allowance on the condition that the mother (stepmother) is employed in accordance with the Law «About state benefits to families with children».

Decree of the President of the Republic of Belarus 26.04.2010 № 200 and Regulations «About the procedure for appointment and payment of government benefits to families with children» contain more information about procedure for getting allowances.

In accordance with the Decree of the President of the Republic of Belarus 09.12.2014 № 572, mother (stepmother), single parent or adoptive parent has right to get one-time non-cash payment in the amount of US \$10,000 (family capital). Necessary conditions for it are birth or adoption of the third or subsequent children at the period from 01.01.2015 until 31.12.2019, if taking into account the last child in the family brings up at least three children under the age of 18 years. Family may realize the right to the appointment of family capital once in full or in parts for improvement of living conditions, education, social services, health care, funded (extra) pension mother (stepmother, single parent). The right to dispose of family capital is provided in 18 years from the date of birth (adoption) of the child (except medical care, which is available earlier).

Working father (guardian) or other relative, who actually takes care for a sick child under 14 years, a child under 3 years and a disabled child under 18 of age, in the case of the mother's illness has right to get temporary disability benefits.

Working single fathers and guardians are entitled to the guarantees provided by the legislation and collective agreements for working mothers.

Sources: §49, 183, 185, 266 and 271 of the Labour Code; §11-13 Law of the Republic of Belarus «About state benefits to families with children» 29.12.2012 №7-3; Decree of the President of the Republic of Belarus 26.04.2010 № 200; Regulations «About the procedure for appointment and payment of government benefits to families with children», established by Resolution of the Council of Ministers 28.06.2013 №569; Decree of the President of the Republic of Belarus 09.12.2014 №572; Regulations «About the procedure and conditions of appointment, financing (transfer), the management of funds of family capital», established by Resolution of the Council of Ministers 24.02.2015 №128; Resolution of the Ministry of labour and social protection of the Republic of Belarus 23.10.2017 № 60

Flexible Work Option for Parents / Work-Life Balance

Overtime work, business trips, and working on the weekends are forbidden for women with children under three years. Women who have children under 3 years of age may work at night only with their consent. Women with children from 3 to 14 years (disabled children - under 18) may work on a weekly rest day or public holidays, at night, overtime or go to the business trips only with their consent.

Women with children under the age of one and half year (18 month), in case of impossibility to carry out their previous work, must be transferred to another job with average pay for previous work, before the child will reach the age of one and half year.

Parent (stepparent), guardian (trustee), who brings up a disabled child under 18 years or three or more children under 16 years, is provided with additional weekly rest day with payment in the amount of the average daily wage. Parent (stepparent), guardian (trustee), who brings up a disabled child under 18 years, has right to get additional monthly rest day with payment in the amount of the average daily wage. Parent (stepparent), guardian (trustee), who brings up two children under 16 years, may get additional monthly rest day. The payment for this day may be established by the collective agreement or the act of employer.

The employer must provide women with two or more children under 14 years or a disabled child under 18 years employee with the additional unpaid leave up to 14 calendar days. Workers also have a right to make a written request to get unpaid leave during a calendar year of not more than 30 calendar days for family reasons.

Employed women with children under the age of one and half year (18 months) are provided with additional nursing breaks.

There are rooms for nursing and women's personal hygiene, kindergartens, nurseries in organizations with a wide employment of women.

Working single fathers and guardians are entitled to the guarantees provided by the legislation and collective agreements for working mothers.

Sources: §189, 190, 263-265, 267, 270, 271 of the Labour Code

06/13 MATERNITY & WORK

ILO Conventions

An earlier Convention (103 from 1952) prescribed at least 12 weeks maternity leave, 6 weeks before and 6 weeks after birth. However, a later convention (No. 183 from year 2000) requires that maternity leave be at least 14 weeks of which a period of six weeks compulsory leave should be after childbirth.

Belarus has ratified both the Conventions 103 & 183.

Summary of Provisions under ILO Convention

During pregnancy and maternity leave, a worker should be entitled to medical and midwife care without any additional cost.

During pregnancy and while breastfeeding, a worker should be exempt from work that might bring harm to you or your baby.

The total maternity leave should last at least 14 weeks.

During maternity leave, a worker's income should amount to at least two thirds of your preceding salary.

During pregnancy and maternity leave, a worker should be protected from dismissal or any other discriminatory treatment.

Workers have the right to return to same or equivalent position after availing maternity leave.

After childbirth and on re-joining work, a worker must be allowed paid nursing breaks for breast-feeding the child.

Regulations on maternity and work:

- Labour Code of the Republic of Belarus 1999 (version 13.11.2017)
- Law of the Republic of Belarus «About healthcare» 18.06.1993 №2435-XII (version 16.06.2014)
- Law of the Republic of Belarus «About state benefits to families with children» 29.12.2012 №7-3 (version 30.06.2017)
- Decree of the President of the Republic of Belarus «About administrative procedures, implemented by government agencies and other organizations on the applications of citizens» 26.04.2010 №200 (version 23.07.2012)
- Regulations «About the procedure for providing temporary disability benefit and maternity allowance», established by Resolution of the Council of Ministers 28.06.2013 №569 (version 12.12.2017)
- Resolution of the Council of Ministers «About some issues of state minimum social standards in the field of public health» 29.03.2016 №259
- Resolution of the Ministry of labour and social protection of the Republic of Belarus «About the establishment of the list of heavy jobs and jobs with harmful and (or) dangerous working conditions, on which it is prohibited to attract women to the labour» 12.06.2014 №35
- Resolution Ministry of health of the Republic of Belarus «About the norms of lifting and moving heavy objects by hand by women» 13.10.2010 №133

Free Medical Care

Every woman during pregnancy and childbirth is provided medical aid under the program for the provision of state guarantees of free medical care to citizens. The right to medical care is applicable to all citizens, irrespective of their employment status.

Medical care is divided into groups: primary, specialized, highly specialized, medical and social assistance and palliative care. Medical care is provided in the following forms: emergency and planned, in stationary conditions or on outpatient basis.

One of the main principles of the state policy of the Republic of Belarus in the field of public health is priority of health services, including drug supply for women during pregnancy, childbirth and the postpartum period. The program of state guaranteed medical care is set by the Resolution of the Council of Ministers 29.03.2016 № 259.

Sources: §3, 4, 16 and 24 of the Law of the Republic of Belarus «About healthcare» 18.06.1993 №2435-XII; Resolution of the Council of Ministers «About some issues of state minimum social standards in the field of public health» 29.03.2016 №259

No Harmful Work

Overtime and night work, business trips, and working on the weekends are forbidden for women.

Law prohibits the employment of pregnant and nursing women in work injurious to their health. It is prohibited to employ women for jobs with harmful and (or) dangerous

The text in this document was last updated in February 2019. For the most recent and updated text on Employment & Labour Legislation in Belarus in Russian, please refer to: <https://mojarplata.by/>

working conditions and underground work, with the exception of non-physical work or work on sanitary and domestic services. The list of heavy work and work in hazardous conditions with limits for women is established by the Resolution of the Ministry of Labour and Social Protection of the Republic of Belarus 12.06.2014 №35. It is forbidden to hire women for work involving the manual lifting and moving of loads exceeding the maximum limits set by the Resolution Ministry of health of the Republic of Belarus 13.10.2010 №133.

Pregnant women must be transferred to another safer job while retaining her previous average earnings. Before a safer work can be arranged for pregnant woman worker, she must be released from work while saving her average earnings.

Sources: §262-264 of the Labour Code; Resolution of the Ministry of labour and social protection of the Republic of Belarus «About the establishment of the list of heavy jobs and jobs with harmful and (or) dangerous working conditions, on which it is prohibited to attract women to the labour» 12.06.2014 №35; Resolution Ministry of health of the Republic of Belarus «About the norms of lifting and moving heavy objects by hand by women» 13.10.2010 №133

Maternity Leave

Pregnant women have the right to get maternity leave of 126 calendar days (in the case of complicated deliveries or the birth of two or more children - the leave is extended to 140 calendar days). Women constantly (mostly) living or working in the area of radioactive contamination are provided with maternity leave of 146 calendar days (in case of complicated deliveries or the birth of two or more children - the leave is extended to 160 calendar days). The maternity leave is granted by application of worker and medical certificate.

Sources: §184 of the Labour Code

Income

During maternity leave, workers receive a state benefit, which is set at 100% of the employee's previous average pay. The minimum rate of the maternity benefit is 50% of maximum value of the living wage. Since 01.08.2018 till 31.10.2018 living wage is 213.67 BYR. Following renewals of rates of the living wage will be available at the site of the Ministry of Labour and Social Protection: <http://mintrud.gov.by/>.

Since 2017, there is an additional charge for women, who receive the minimum maternity benefit. The sum of the additional charge is the difference in the rates of the maternity benefit and the child allowance (until the child attains the age of 3 years). This rule applies for those, who took medical certificates since July 1, 2017. Woman may get the additional charge after the end the sick leave.

Sources: §7-9 of the Law of the Republic of Belarus «About state benefits to families with children» 29.12.2012 №7-3; §16, 21-25, 29 of the Regulations «About the procedure for

The text in this document was last updated in February 2019. For the most recent and updated text on Employment & Labour Legislation in Belarus in Russian, please refer to: <https://mojazarplata.by/>

providing temporary disability benefit and maternity allowance», established by Resolution of the Council of Ministers 28.06.2013 №569

Protection from Dismissals

The termination of employment contract with a pregnant worker by employer's initiative is not allowed, except in the case of:

- liquidation of the organization;
- termination of individual employer's activities;
- repeated non-performance of job duties in the presence of disciplinary penalty;
- absence from work without justifiable reasons for more than 3 hours or during the whole workday;
- drinking alcohol, use of narcotic drugs, psychotropic substances, their analogues, toxic substances during working hours or in the workplace / being at work in state of intoxication;
- on-the-job embezzlement;
- violation of safety rules;
- special grounds for termination of employment contracts with certain categories of workers (teachers, heads of the organization, chief accountants, etc.).

Sources: §268 of the Labour Code

Right to Return to Same Position

Worker has a right to return to the same position after availing maternity leave. Women with children under the age of 18 months, in case of difficulty to carry out their previous work, are transferred at their request to another job with wages not lower than average earnings on previous work until the child is one and a half years.

Sources: §183 and 264 of the Labour Code

Breastfeeding

Employed women with children under the age of 18 months are provided with additional nursing breaks of at least 30 minutes for each child (60 minutes for two or more children) after every three hours of work. These nursing breaks are paid breaks and count as working time. A woman worker may choose to join nursing breaks with rest or meal breaks or may decide to combine nursing breaks in one period at the beginning or end of the working day.

Sources: §267 of the Labour Code

07/13 HEALTH & SAFETY

ILO Conventions

Most ILO OSH Conventions deal with very specific Occupational Safety hazards, such as asbestos and chemicals.

Convention 155 (1981) is the relevant general convention here.

Labour Inspection Convention: 81 (1947)

Belarus has ratified both the Conventions 81 & 155.

Summary of Provisions under ILO Conventions

The employer, in all fairness, should make sure that the work process is safe.

The employer should provide protective clothing and other necessary safety precautions for free.

Workers should receive training in all work-related safety and health aspects and must have been shown the emergency exits.

In order to ensure workplace safety and health, a central, independent and efficient labour inspection system should be present.

Regulations on health and safety:

- Constitution of the Republic of Belarus 1994
- Labour Code of the Republic of Belarus 1999 (version 13.11.2017)
- Law of the Republic of Belarus «About OSH» 23.06.2008 №356-3 (version 12.07.2013)
- List of personal protective equipment, directly providing work safety, established by the Resolution of the Ministry of labour and social protection of the Republic of Belarus 15.10.2010 №145
- Instruction about the procedure of preparation, training, internships, mentoring, advanced training and testing of workers' knowledge of OSH, established by the Resolution of the Ministry of labour and social protection of the Republic of Belarus 28.11.2008 №175
- Intersectoral general rules of OSH, established by the Resolution of the Ministry of labour and social protection of the Republic of Belarus 03.06.2003 №70
- Rules of investigation and registration of accidents at work and occupational diseases, established by the Resolution of the Ministry of labour and social protection of the Republic of Belarus 15.01.2004 №30
- Statute of the Department of State Labour Inspection of the Ministry of Labour and Social Protection, established by the Resolution of the Council of Ministers of the Republic of Belarus 29.07.2006 №959

Employer Cares

Every individual has the constitutional right to work in safe and hygienic working conditions. The employer is obligated to ensure protection to workers' health and safety. The Labour Code and Law of the Republic of Belarus «About OSH» make it more exact, for example:

- establishment and functioning of OSH management system;
- acquisition and issuance of special clothing, footwear and other personal protective equipment, washing and neutralizing agents, etc (at employer's expense);
- training in safe methods and techniques of work, briefing on labour protection and checking of knowledge of labour protection requirements;
- exclusion from work of persons, who are not trained in occupational safety and health;
- special assessment of working conditions;
- carrying their own funds for obligatory medical inspections;
- inform workers about OSH;
- investigation and registration of accidents and occupational diseases at work;
- compulsory social insurance of workers against of accidents at work and occupational diseases;
- other cases by legislation.

While employees have the right to a workplace equipped with the safety requirements and labour protection, they must also comply with the rules and regulations of health and safety at workplace.

The text in this document was last updated in February 2019. For the most recent and updated text on Employment & Labour Legislation in Belarus in Russian, please refer to: <https://mojazarplata.by/>

Sources: §41 of the Constitution; §224, 226, 230 of the Labour Code; §17-19 of Law of the Republic of Belarus «About OSH» 23.06.2008 №356-3; Intersectoral general rules of OSH, established by the Resolution of the Ministry of labour and social protection of the Republic of Belarus 03.06.2003 №70

Free Protection

In working at harmful or dangerous working conditions, as well as work carried out in special temperature conditions or pollution-related conditions, employees are given free special clothes, special footwear and other personal protective equipment, and wash-off and the neutralizing agent. Storage, washing, drying, repair and replacement of special clothing is provided free of charge to the workers. List of personal protective equipment, directly providing work safety, is approved by the Resolution of the Ministry of labour and social protection of the Republic of Belarus 15.10.2010 № 145. Also, employees, who work with harmful and (or) dangerous working conditions, have right to get free medicinal and healthy nutrition, milk or equivalent foodstuffs.

Sources: §222, 225, 226, 230 of the Labour Code; §28 of Law of the Republic of Belarus «About OSH» 23.06.2008 №356-3; Intersectoral general rules of OSH, established by the Resolution of the Ministry of labour and social protection of the Republic of Belarus 03.06.2003 №70; List of personal protective equipment, directly providing work safety, established by the Resolution of the Ministry of labour and social protection of the Republic of Belarus 15.10.2010 №145

Training

The employer must conduct briefings on occupational safety and organize training on safe methods and techniques of work and first aid, as well as ensure medical examination for workers. Employers have the right to prohibit employees from working who have not undergone training and their knowledge to work is yet to be verified. The employer is required to provide instruction and training to persons, hired to work in harmful or hazardous working conditions, about safe working methods and techniques. Such persons must be trained about labour protections and their knowledge of labour protection must be checked regularly. Instruction about the procedure of preparation, training, internships, mentoring, advanced training and testing of workers' knowledge of OSH 2008 establishes details of it.

Sources: §226 of the Labour Code; §17-19, 25 of Law of the Republic of Belarus «About OSH» 23.06.2008 №356-3; Intersectoral general rules of OSH, established by the Resolution of the Ministry of labour and social protection of the Republic of Belarus 03.06.2003 №70; Instruction about the procedure of preparation, training, internships, mentoring, advanced training and testing of workers' knowledge of OSH, established by the Resolution of the Ministry of labour and social protection of the Republic of Belarus 28.11.2008 №175

Labour Inspection System

State control over the observance of labour legislation of the Republic of Belarus is carried out by the Department of State Labour Inspection of the Ministry of Labour and Social Protection. The current control in regions is exercised by local offices of the Department of State Labour Inspection. Officials of the Department are the state labour inspectors.

State labour inspectors must comply with legislation and rights of employers. State labour inspectors are also authorised to:

- pass freely into the territory, facilities and premises of inspected employer;
- examine documents to verify their compliance with the law and to make copies of it;
- suspend or prohibit work organizations in case of violations of occupational safety requirements, endangering the life and health of workers;
- investigate industrial accidents;
- other by legislation.

These powers of state labour inspectors are specialized by subordinate acts, such as Rules of investigation and registration of accidents at work and occupational diseases.

The Republic of Belarus ratified the Convention 1947 (No. 81) about labour inspection in 1995.

Sources: §221-1 of the Labour Code; §40 of Law of the Republic of Belarus «About OSH» 23.06.2008 №356-3; Rules of investigation and registration of accidents at work and occupational diseases, established by the Resolution of the Ministry of labour and social protection of the Republic of Belarus 15.01.2004 №30; Statute of the Department of State Labour Inspection of the Ministry of Labour and Social Protection, established by the Resolution of the Council of Ministers of the Republic of Belarus 29.07.2006 №959

08/13 SICK LEAVE & EMPLOYMENT INJURY BENEFIT

ILO Conventions

Convention 102 (1952), Conventions 121 (1964) and 130 (1969) concerning Social Security, Employment Injury Benefits and Medical Care and Sickness Benefits

Belarus has not ratified the Conventions 102, 121 & 130.

Summary of Provisions under ILO Conventions

A worker's rights to work and income should be protected when illness strikes. The national labour law may provide that sickness benefit may not be paid during the first 3 days of your absence. Minimally, a worker should be entitled to an income during first 6 months of illness. This income should be at least 45 per cent of the minimum wage. (Countries are free to opt for a system which guarantees 60 per cent of the last wages during the first 6 months of illness or even during the first year). A worker must be entitled to paid sick leave.

During illness, a worker should be entitled to medical care without any additional cost. Employees and their family members should have access to the necessary minimal medical care at an affordable cost.

During the first 6 months of illness, a worker should not be fired.

If a worker is disabled due to an occupational disease or accident, he/she must receive a higher benefit. In the case of temporary or total incapacity/disability, a worker may at least be provided 50% of his average wage while in the case of fatal injury, the survivors may be provided with 40% of the deceased worker's average wage in periodical payments.

Regulations on sick leave & Employment Injury Benefits:

- Labour Code of the Republic of Belarus 1999 (version 13.11.2017)
- Law of the Republic of Belarus «About healthcare» 18.06.1993 №2435-XII (version 21.10.2016)
- Regulations «About the procedure for providing temporary disability benefit and maternity allowance», established by Resolution of the Council of Ministers 28.06.2013 №569 (version 12.12.2017)
- Resolution of the Council of Ministers «About some issues of state minimum social standards in the field of public health» 29.03.2016 №259
- Regulation of insurance operations in the Republic of Belarus, established by Decree of the President of the Republic of Belarus 25.08.2006 №530

Income/Paid Sick Leave

Citizens, who take part in the state social insurance, have right to get temporary disability allowance. Temporary disability allowance is appointed in following cases:

- illness or injury;
- care for a sick family member, including a sick child under 14 years (disabled child under 18 years);
- caring for a child under 3 years and a disabled child under 18 years during mother's (other person actually caring for the child) illness;
- caring for a disabled child under 18 years in case of sanatorium treatment and medical rehabilitation;
- prosthetics;
- quarantine;
- maternity leave or adoption of a child under the age of 3 years.

Temporary disability allowance is paid by medical certificate.

Temporary disability allowance is paid for the whole period of temporary disability until the day of rehabilitation (or the establishment of permanent disability), but no longer, then 120 days continuously or 150 days intermittently for the past 12 months with repeated instances of temporary disability in relation to one or related diseases or trauma (for tuberculosis - not more than 180 days continuously or 240 days intermittently in the last 12 months).

Temporary disability allowance is granted in the amount of:

- for the first 12 calendar days of disability - 80% of the average daily earnings;
- for the next days of temporary disability - 100% of the average daily earnings.

The average daily earnings is counted for the 6 calendar months preceding the month, when right to benefit is appear.

The minimum rate of temporary disability allowance is 50% of maximum value of the living wage for last two quarters. Since 01.08.2018 till 31.10.2018 living wage is 213.67 BYR. Following renewals of rates of the living wage will be available at the site of the Ministry of Labour and Social Protection: <http://mintrud.gov.by/>.

Sources: §2, 3, 10, 16 and 21 of the Regulations «About the procedure for providing temporary disability benefit and maternity allowance», established by Resolution of the Council of Ministers 28.06.2013 №569

Free Medical Care

Every citizen (irrespective of their employment status) is provided medical aid under the program for the provision of state guarantees of free medical care to citizens.

Medical care is divided into groups: primary, specialized, highly specialized, medical and social assistance and palliative care. Medical care is provided in the following forms: emergency and planned, in stationary conditions or on outpatient basis.

One of the main principles of the state policy of the Republic of Belarus in the field of public health is priority of health services, including drug supply for women during pregnancy, childbirth and the postpartum period.

The program of state guarantees medical care is set by the Resolution of the Council of Ministers 29.03.2016 № 259.

Sources: §3, 4, 16 and 24 of the Law of the Republic of Belarus «About healthcare» 18.06.1993 №2435-XII; Resolution of the Council of Ministers «About some issues of state minimum social standards in the field of public health» 29.03.2016 №259

Job Security

Dismissal by the employer's initiative during the period of the temporary disability is forbidden, except in the case of liquidation of the organization, termination of individual employer's activities, and absence from work for more than four consecutive months due to temporary disability (unless it relates to pregnancy or occupational injury). Special legislation may set a longer period of employment protection for certain diseases. If cause of disability is employment injury or occupational disease, employment is retained until rehabilitation or establishment of invalidity.

Sources: §42 and 43 of the Labour Code

Disability/Work Injury Benefit

Compulsory insurance against accidents at work and occupational diseases provides financial protection of property interests of the insured and other individuals associated with the loss of health, occupational disability or death as a result of accidents at work and occupational diseases. Every employee gets compulsory insurance against accidents at work and occupational diseases. The work injury benefit is reduced by 50% in the case of gross negligence on the part of the worker (for example, intoxication).

Temporary disability benefits due to accidents at work and occupational diseases is paid for the whole period of temporary disability until recovery, or certification of permanent disability, or death. In the case of transfer in connection with accidents at work/occupational diseases to lighter and lower paid job, the amount of the benefit is the difference between the average monthly earnings for previous work and earnings for the new work. The one-time and monthly insurance payments are assigned in cases of death or disability of worker.

Temporary disability benefits and additional payments to the average monthly salary is calculated by multiplying the rate of the average daily (average hourly) earnings (income) of the victim to number of working days (hours) by the medical certificate.

The permanent disability benefit is the insured worker's adjusted monthly earnings before the start of disability and is set according to the assessed loss of working capacity. There is also provision for a permanent disability grant which is paid as lump sum of the six times the value of permanent disability pension.

In the event of worker's death, a monthly survivor's pension is paid. There is also provision for survivor grant which is lump sum of 12 times the deceased worker's average monthly earnings. The benefit is divided equally between all survivors. The eligible survivors are widow(er), children younger than 18 years (age limit is raised to 23 years for students), old-age pensioners, disabled persons, one of the insured's parents, and other nonworking relatives with dependents younger than age 14 or disabled.

The monthly insurance payment for worker is calculated by multiplying the average wage of workers in the Republic of Belarus in the past month to the individual coefficient of earnings and the degree of the loss of his occupational disability.

Sources: §224 of the Labour Code; chapter 6 of the Regulation of insurance operations in the Republic of Belarus, established by Decree of the President of the Republic of Belarus 25.08.2006 №530

09/13 SOCIAL SECURITY

ILO Conventions

Social Security (minimum standards): Convention 102 (1952). For several benefits somewhat, higher standards have been set in subsequent Conventions

Employment Injury Benefits: Conventions 121 (1964),

Invalidity, Old age and survivors' benefits: Convention 128(1967)

Medical Care and Sickness Benefits: Convention 130 (1969)

Unemployment Benefits: Convention 168 (1988).

Belarus has not ratified the Convention 102, 121, 128, 130 & 168.

Summary of Provisions under ILO Conventions

In the normal circumstances, the pensionable age may not be set higher than 65 years of age. If retirement age is fixed above 65 years, it should give "due regard to the working ability of elderly persons" and "demographic, economic and social criteria, which shall be demonstrated statistically". Pension can be set as a percentage of the minimum wage or a percentage of the earned wage.

When the breadwinner has died, the spouse and children are entitled to a benefit, expressed as a percentage of the minimum wage, or a percentage of the earned wage. This must at least be 40% of the reference wage.

For a limited period of time, the unemployed has a right to unemployment benefit set as a percentage of the minimum wage or a percentage of the earned wage.

Invalidity benefit is provided when a protected person is unable to engage in a gainful employment, before standard retirement age, due to a non-occupational chronic condition resulting in disease, injury or disability. Invalidity Benefit must at least be 40% of the reference wage.

Regulations on social security:

- Law of the Republic of Belarus «About pension system» 17.04.1992 №1596-XII (version 08.01.2018)
- Law of the Republic of Belarus «About the Fundamentals of the State social insurance» 31.01.1995 №3563-XII (version 30.12.2011)
- Law of the Republic of Belarus «About the professional pension insurance» 05.01.2008 №322-3 (version 04.06.2015)
- Law of the Republic of Belarus «About social protection of disabled persons in the Republic of Belarus» 11.11.1991 №1224-XII (version 16.11.2010)
- Law of the Republic of Belarus «About prevention of disability and rehabilitation of disabled persons» 23.07.2008 №422-3 (version 04.06.2015)
- Law of the Republic of Belarus «About employment of the population of the Republic of Belarus» 15.06.2006 №125-3 (version 18.07.2016)
- Decree of the President of the Republic of Belarus «About development of pension system» 11.04.2016 №137
- Decree of the President of the Republic of Belarus «About some issues of professional pension insurance and pension funding» 25.09.2013 №441
- Resolution of the Council of Ministers of the Republic of Belarus «About some issues of professional pension insurance» 09.10.2008 №1490

Pension Rights

There is provision for both social insurance (contributory) and social assistance (state guaranteed) pension in Belarus. The right for contributory old age pension is established for men at the age of 60 with at least 25 years of service (including 15 years and six months of paid contributions) while for women, the age limit is reduced to 55 years with at least 20 years of length of service (including 15 years and six months of paid contributions). Qualifying conditions are reduced for those engaged in hazardous working conditions, persons with innate disabilities, parents with disabled children, war veterans, mothers of soldiers killed in action and mothers of five or more children. There is also provision for partial pension which is paid if the insured person does not meet the requirements for full old age pension. Law also allows deferring the pensions to a later age.

The earnings and length of service for counting rates of retirement pension are calculated according to rules of Law of the Republic of Belarus «About pension system».

Belarus legislation establishes monthly early professional pension and additional professional pension. It depends on profession, length of service, gender, working conditions (for early pension) and using funds of the professional part of the personal pension account (for additional pension).

From January 2017, retirement age will be progressively increased for men to 63 years and for women to 58 years.

The rate of the retirement pension is 55% of average monthly earnings (wage base to be determined by the Council of Ministers) plus 1% of the insured worker's average monthly earnings for each year of coverage over 20 years (women) and 25 years (men). An additional 1% is paid for each year of coverage exceeding 10 years in hazardous work (7.5 years for women) up to a maximum of 20%.

The minimum pension is 25% of the national average subsistence level income (living wage) in the last two quarters plus 20% of the national average wage. The minimum partial pension is 50% of the minimum pension however the partial pension is raised to full pension for mothers of at least five children.

In addition, there is social pension for those, who do not get labour/contributory old age pension. The social assistance pension is paid non-working citizens aged 60 (women) and 65 (men) if they are not entitled to contributory old age pension. The social pension is 50% of the national average subsistence income in the last 6 months. Since 01.08.2018 till 31.10.2018 living wage is 213.67 BYR. Following renewals of rates of the living wage will be available at the site of the Ministry of Labour and Social Protection: <http://mintrud.gov.by/>.

Sources: §4, 5, 11, 23-24, 51, 56, 72, 73 of the Law of the Republic of Belarus «About pension system» 17.04.1992 № 1596-XII; §1, 11, 17 of the Law of the Republic of Belarus «About the professional pension insurance» 05.01.2008 №322-3; Law of the Republic of Belarus «About the Fundamentals of the State social insurance» 31.01.1995 №3563-XII; Decree of the President of the Republic of Belarus 11.04.2016 №137; Decree of the President of the Republic of Belarus 25.09.2013 №441; Resolution of the Council of Ministers of the Republic of Belarus 09.10.2008 №1490

Dependents' / Survivors' Benefit

Law provides for survivors' benefits in the case of death of a breadwinner. Simultaneously, disabled and dependent family members of the deceased breadwinner have a right to get survivors' benefit. The parents and spouse of died breadwinner (who were not his dependents) are also entitled to a pension if they subsequently lost their source of livelihood. The survivor's' benefit for spouse is discontinued in case of remarriage, as well as for minors in case of adoption. Legislation provides following family members of the deceased breadwinner the right to survivors' benefit:

1. children (adopted children, step children) under 18 years of age (disabled - no age limit);
2. brothers, sisters and grandchildren under 18 years of age (disabled - no age limit), if they do not have employable parents or alimony;
3. the age limit is raised for children to 23 years in the case of full-time students;
4. father, mother (adoptive parents), spouses, if they have reached retirement age, or are disabled;
5. parent, spouse, grandfather, grandmother, brother or sister (regardless of age and disability), if he (she) is taking care of children, brothers, sisters or grandchildren up to 8 years old of the deceased breadwinner and do not work;

6. grandfather and grandmother - in the absence of the persons who are legally required to support them;
7. stepfather, stepmother, if they have reached retirement age, or are disabled, if he/she raised or kept a deceased stepson or stepdaughter at least 5 years.

Depending on the deceased person's age at the time of death, the deceased person must have from one to fifteen years of coverage (it depends on age of breadwinner). The survivor benefit with less than required length of service is calculated in proportion to the available length of service, but not less than 50% of the minimum rate of retirement pension.

The survivors' benefit is appointed for each disabled family member at the rate of 40% (50% for orphans) of the average monthly wage of the breadwinner, but not less than 100% of the minimum old age pension (200% for the loss of both parents or the death of a single mother). The earnings and length of service for counting rates of survivors' benefits are calculated according to rules of Law of the Republic of Belarus «About pension system».

In addition, there is social assistance related survivors' benefit for children under 18 years of age. The rate is 85% of maximum value of the living wage (national average subsistence income level) for last two quarters. Since 01.08.2018 till 31.10.2018 living wage is 213.67 BYR. Following renewals of rates of the living wage will be available at the site of the Ministry of Labour and Social Protection: <http://mintrud.gov.by/>.

Sources: §4, 35, 36, 38-41, 72 and 73 of the Law of the Republic of Belarus «About pension system» 17.04.1992 № 1596-XII

Unemployment Benefits

The state guarantees social protection from unemployment. A person is considered unemployed who is out of work, looking for a job and ready to start work. In order to avail unemployment benefits, he/she must register with the employment service in order to find a proper job.

The following groups of citizens cannot be recognized as unemployed:

- under 16 years old;
- retired;
- convicted to obligatory work, arrest, restriction of liberty or imprisonment;
- patients of activity therapy centre;
- those who submitted false documents for proving unemployment;
- graduate, if workplace is provided by the distribution or direction, who does not work necessary time by legislation at that workplace.

Unemployed persons have the right to receive unemployment benefit for 26 weeks from the time of registration as unemployed. The rate and procedure of payment is determined by the following way:

1. before assignment of «unemployed», the person was employed full time for not less than 12 calendar weeks in the last 12-month period, the unemployment benefit in this case is 70% of average earnings for first 13 weeks and 50% of the average earnings for the next 13 weeks (in total 26 weeks);
2. before assignment of «unemployed» status, the worker was employed full time for less than 12 weeks in the last 12 months of covered employment, the unemployment benefit is 100% of the average earnings for the first 13 weeks and 75% of the average earnings for next 13 weeks;
3. for workers with a long gap in work activities (more than 12 months) but who have covered employment of at least one year, the unemployment benefit is 100% of the average earnings for the first 13 weeks and 75% of the average earnings for next 13 weeks;
4. for persons who have registered in the employment service for searching work for the first time, the unemployment benefit 85% of the average earnings for the first 13 weeks and 70% of the average earnings for next 13 weeks;
5. for long term employed persons who have work experience of less than one year, the unemployment benefit 85% of the average earnings for the first 13 weeks and 70% of the average earnings for next 13 weeks.

Sources: §1, 3 and 24 of the Law of the Republic of Belarus «About employment of the population of the Republic of Belarus» 15.06.2006 №125-3

Invalidity Benefit

The invalidity benefit is paid to citizens recognized as disabled of I, II or III disability group. The recognition of a disabled citizen and establishment of disability is produced by state agencies on medical and rehabilitation expertise. The invalidity benefit is set regardless of the cause of disability.

As a rule, right for the invalidity benefit depends on length of service and age of establishment of disability. The Law of the Republic of Belarus «About pension system» stipulates the correlation of it. For those, who have become disabled before reaching 20 years of age during work/entrepreneurship/creative and other activities or after its termination, invalidity benefit is granted regardless of length of service.

Rates of invalidity insurance pension are:

- I disability group (incapacity for all work and requires constant attendance) - 75% of the average monthly earnings;
- II disability group (incapacity for all work but does not require constant attendance) - 65% of the average monthly earnings;
- III disability group (incapacity for usual work) - 40% of the average monthly earnings.

The earnings and length of service for counting rates of the invalidity benefit are calculated according to rules of Law of the Republic of Belarus «About pension system».

If disabled person (I or II group) has length of service that is required for the appointment of old age pension, the invalidity benefit may be assigned in the amount of old age pension. The minimum invalidity benefit is set in amount:

- a. for I and II group of disability – 100% of the minimum old age pension;
- b. for III group of disability – 50% of the minimum old age pension.

The invalidity benefit with length of service less than necessary is calculated in proportion to the available length of service, but not less than 100% (for group I) and 50% (for group II) of the minimum rate of retirement pension.

In addition, there is the social invalidity benefit for disabled people (including disabled persons since childhood) and disabled children under 18 years. Following are the rates of social invalidity benefit:

1. for I group (including disability since childhood) – 110% of maximum value of the living wage (national average subsistence income level) for last two quarters;
2. for II group of disability since childhood – 95% of maximum value of the living wage (national average subsistence income level) for last two quarters;
3. for II group – 85% of maximum value of the living wage (national average subsistence income level) for last two quarters;
4. for III group (including disability since childhood) – 75% of maximum value of the living wage (national average subsistence income level) for last two quarters;
5. for disabled children of I degree of loss of health – 80% of maximum value of the living wage (national average subsistence income level) for last two quarters;
6. for disabled children of II degree of loss of health – 85% of maximum value of the living wage (national average subsistence income level) for last two quarters;
7. for disabled children of III degree of loss of health – 95% of maximum value of the living wage (national average subsistence income level) for last two quarters;
8. for disabled children of IV degree of loss of health – 110% of maximum value of the living wage (national average subsistence income level) for last two quarters.

Since 01.08.2018 till 31.10.2018 living wage is 213.67 BYR. Following renewals of rates of the living wage will be available at the site of the Ministry of Labour and Social Protection: <http://mintrud.gov.by/>.

Other measures of social protection of disabled people are established by special legislation with regard to rehabilitation, medical care, social amenities, etc.

Sources: §4, 27, 28, 31, 32, 72 and 73 of the Law of the Republic of Belarus «About pension system» 17.04.1992 №1596-XII; §8-10, 31-33 of the Law of the Republic of Belarus «About social protection of disabled persons in the Republic of Belarus» 11.11.1991 №1224-XII; §21 and 23 of the Law of the Republic of Belarus «About prevention of disability and rehabilitation of disabled persons» 23.07.2008 №422-3

10/13 FAIR TREATMENT

ILO Conventions

Convention 111 (1958) lists the discrimination grounds which are forbidden.

Convention 100 (1952) is about Equal Remuneration for Work of Equal Value.

Belarus has ratified both Conventions 100 & 111.

Summary of Provisions under ILO Conventions

At workplaces, equal pay for men and women for work of equal value is a must, regardless of marital status. Pay inequality based on race, colour, sex, religion, political opinion, national extraction/place of birth or social origin is also forbidden. A transparent remuneration system and the clear matching of pay and position should be in place and to help prevent wage discrimination.

Not clearly provided in ILO Conventions. However, sexual intimidation/harassment is gender discrimination.

An employer can't discriminate against you on in any aspect of employment (appointment, promotion, training and transfer) on the basis of union membership or participation in union activities, filing of a complaint against an employer, race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin, temporary absence due to illness, age, trade union membership, disability/HIV-AIDS, or absence from work during maternity leave. (Conventions 111, 156, 158, 159 and 183)

People have the right to work and there can't be occupational segregation on the basis of gender.

Regulations on fair treatment:

- Constitution of the Republic of Belarus 1994
- Labour Code of the Republic of Belarus 1999 (version 13.11.2017)
- Criminal Code of the Republic of Belarus 1999 (version 18.07.2017)
- Law of the Republic of Belarus «About trade unions» 22.04.1992 №1605-XII (version 13.07.2016)
- Law of the Republic of Belarus «About social protection of disabled persons in the Republic of Belarus» 11.11.1991 №1224-XII (version 16.11.2010)
- Resolution of the Ministry of labour and social protection of the Republic of Belarus «About the establishment of the list of heavy jobs and jobs with harmful and (or) dangerous working conditions, on which it is prohibited to attract women to the labour» 12.06.2014 № 35
- Resolution Ministry of health of the Republic of Belarus «About the norms of lifting and moving heavy objects by hand by women» 13.10.2010 № 133

Equal Pay

Women and men, adults and minors have the right to equal pay for equal work, in accordance with the Constitution. The Labour Code also prohibits discrimination and requires employer to follow the principle of equality of rights and opportunities. Labour Code requires that every employee's wages depend on his or her qualifications, complexity of work executed, the amount and quality of the labour input. Any discrimination when establishing and changing the amount of wages and other terms of remuneration of employment is prohibited.

Sources: §42 of the Constitution; §11 and 14 of the Labour Code

Sexual Harassment

According to the Constitution, everyone has the right to liberty and security. Individual dignity is protected by the state. Nothing can be a reason for its derogation. Women are guaranteed equal opportunities in all spheres of life, including creation of conditions for the protection of their safety and health. The Labour Code establishes prohibition of discrimination, including on grounds of gender.

Belarus legislation does not contain a definition of sexual harassment. The only article in Criminal Code which can be used in cases of sexual harassment in the workplace is the 'compulsion to perform sexual actions'. The compulsion of a person to enter into illicit relation or commissions of sexual actions by blackmail, threat of destruction, damage, or taking of property, or with the use of material or any other dependence of the victim, is punishable by restriction of freedom for up to three years or imprisonment for the same term with a fine and disqualification (or without it).

Belarus legislation establishes criminal liability for offenses against sexual inviolability by the Criminal Code, however, does not focus on sexual harassment in the workplace.

Also, there is no provision on employer's liability for failure to prevent sexual harassment in the workplace.

Sources: §25 and 32 of the Constitution; §14 of the Labour Code; §170 of the Criminal Code

Non-Discrimination

The Constitution and the Labour Code have the prohibition of the discrimination. This rule is specified for members of trade unions and disabled people by special laws. Discrimination is the restriction of labour rights and freedoms or receiving any advantages based on gender, race, nationality, origin, language, attitude to religion, political opinion, participation or non-participation in trade unions or other public associations, property status, employment status, age, place of residence, physical or mental disabilities, as well as other circumstances not related to professional qualities and specificity of work.

Discrimination however does not include differences, exceptions, preferences and restrictions determined by requirements inherent in the nature of the work or dictated by the state's concern for people in need of increased social and legal protection (that is positive discrimination or affirmative action is not prohibited). Persons who consider that they have been discriminated at the workplace, may apply to the court for redress.

Sources: §22 of the Constitution; §14 of the Labour Code; §4 of the Law of the Republic of Belarus «About trade unions» 22.04.1992 №1605-XII; §4 of the Law of the Republic of Belarus «About social protection of disabled persons in the Republic of Belarus» 11.11.1991 №1224-XII

Equal Choice of Profession

In accordance with the Constitution, "citizens of the Republic of Belarus shall be guaranteed the right to work as the worthiest means of an individual's self-assertion, that is, the right to choose of one's profession, type of occupation and work in accordance with one's vocation, capabilities, education and vocational training, and having regard to social needs, and the right to healthy and safe working conditions". The Constitution further states men and women have equal rights and freedoms and equal opportunities for realization of these rights. There are however some exceptions to protect health of women workers. It is prohibited to employ women for jobs with harmful and (or) dangerous working conditions and underground work, with the exception of non-physical work or work on sanitary and domestic services. The list of heavy work and work in hazardous conditions with limits for women is established by the Resolution of the Ministry of labour and social protection of the Republic of Belarus 12.06.2014 №35. It is forbidden to hire women for work involving the manual lifting and moving of the loads exceeding the maximum limits set by the Resolution Ministry of health of the Republic of Belarus 13.10.2010 №133.

Sources: §32 and 41 of the Constitution; §14 and 262 of the Labour Code; Resolution of the Ministry of labour and social protection of the Republic of Belarus «About the establishment of the list of heavy jobs and jobs with harmful and (or) dangerous working conditions, on which it is prohibited to attract women to the labour» 12.06.2014 №35; Resolution Ministry of health of the Republic of Belarus «About the norms of lifting and moving heavy objects by hand by women» 13.10.2010 №133

11/13 MINORS & YOUTH

ILO Conventions

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

Belarus has ratified both Conventions 138 & 182.

Summary of Provisions under ILO Conventions

At workplaces, children may not be forced to perform work that could harm their health and hampers their physical and mental development.

All children should be able to attend school. Once this is safeguarded, there is no objection against children performing light jobs between the ages of 12 and 14. The general minimum age is 15 years however developing countries may set this at 14 years. The minimum age for hazardous work, work that is likely to jeopardize the health, safety or morals of young persons, is 18 years. It can also be set at a lower level of 16 years under certain circumstances

Children should not be employed in a work that is likely to harm the health, safety or morals of children. It is considered one of the worst forms of child labour. The minimum age for such hazardous work is 18 years.

Regulations on minors and youth:

- Labour Code of the Republic of Belarus 1999 (version 13.11.2017)
- Law of the Republic of Belarus «About the bases of the state youth policy» 07.12.2009 № 65-3 (version 21.10.2016)
- Law of the Republic of Belarus «About children's rights» 19.11.1993 №2570-XII (version 11.05.2016)
- Law of the Republic of Belarus «About OSH» 23.06.2008 №356-3 (version 12.07.2013)
- Resolution of the Ministry of labour and social protection of the Republic of Belarus «About the establishment of the list of light work, which can perform under the age of fourteen to sixteen years» 15.10.2010 №144 (version 22.07.2014)
- Resolution of Ministry of Labour of the Republic of Belarus «About norms of lifting and moving heavy loads adolescents from 14 to 18 years» 18.12.1997 №116
- Resolution of Ministry of Labour of the Republic of Belarus «About the list of works, where the employment of persons under 18 years of age is prohibited» 02.02.1995 №13

Minimum Age for Employment

An employment contract can be concluded with a citizen who has reached the age of 16 years. The school leaving age is 17 years, because the duration of the general education is 11 years.

With the written consent of a parent, guardian or adoptive parent, employment contract may be concluded with citizens aged 14 years, if this work does not harm child's health, moral development and education. The list of jobs, which are allowed for children 14-16 years old are determined by Resolution of the Ministry of labour and social protection of the Republic of Belarus 15.10.2010 №144. The normal working hours for children (14-16 years old) are 23 hours per week (11.5 hours if a child combines work with school/during school year). Similarly, the normal working hours for young persons (16-18 years old) are 35 hours per week (17.5 hours if a young person combines work with school/during school year),

Sources: §21 and 272 of the Labour Code; Resolution of the Ministry of labour and social protection of the Republic of Belarus «About the establishment of the list of light work, which can perform under the age of fourteen to sixteen years» 15.10.2010 №144; §12, 16 of the Law of the Republic of Belarus «About the bases of the state youth policy» 07.12.2009 №65-3

Minimum Age for Hazardous Work

Law prohibits the employment of minors to work injurious to health. Working at weekends and public holidays, overtime and night, underground and mining work are prohibited for persons under age of 18.

Moreover, it is not allowed for workers under the age of eighteen years to carry or move weights over the limits laid down by the Resolution of Ministry of Labour 18.12.1997 № 116. The work which may be detrimental to the moral development of minors is also prohibited. The list of heavy jobs and jobs with harmful or dangerous working conditions (where employment of persons under eighteen years of age is prohibited) is confirmed by Resolution of Ministry of Labour 02.02.1995 № 13.

Sources: §274 and 276 of the Labour Code; Resolution of Ministry of Labour of the Republic of Belarus «About norms of lifting and moving heavy loads adolescents from 14 to 18 years» 18.12.1997 №116; Resolution of Ministry of Labour of the Republic of Belarus «About the list of works, where the employment of persons under 18 years of age is prohibited» 02.02.1995 № 13; §24 of the Law of the Republic of Belarus «About children's rights» 19.11.1993 №2570-XII; §16 of the Law of the Republic of Belarus «About OSH» 23.06.2008 №356-3

12/13 FORCED LABOUR

ILO Conventions

Forced labour: Conventions 29 (1930)

Abolition of Forced labour: Conventions 105 (1957)

Forced labour is the work one has to perform under threat of punishment: forfeit of wages, dismissal, harassment or violence, even corporal punishment. Forced labour means violation of human rights.

Belarus has ratified both Conventions 29 & 105.

Summary of Provisions under ILO Conventions

Except for certain cases, forced or compulsory labour (exacted under the threat of punishment and for which you may not have offered voluntarily) is prohibited.

Employers have to allow workers to look for work elsewhere. If a worker is looking for work elsewhere, he/she should not be shortened on wages or threatened with dismissal. (In the reverse cases, international law considers this as forced labour).

If the total working hours, inclusive of overtime exceed 56 hours per week, the worker is considered to be working under inhumane working conditions.

Regulations on forced labour:

- Constitution of the Republic of Belarus 1994
- Labour Code of the Republic of Belarus 1999 (version 13.11.2017)
- Criminal Code of the Republic of Belarus 1999 (version 18.07.2017)
- Law of the Republic of Belarus «About combating with human trafficking» 07.01.2012 №350-3 (version 16.12.2014)

Prohibition on Forced and Compulsory Labour

In accordance with the Constitution, citizens of the Republic of Belarus are guaranteed the right to choose a profession, occupation and work in accordance with their vocation, abilities, education, training, and taking into account the social needs. Forced labour is prohibited by the Constitution and the Labour Code.

The forced labour does not include:

- a. military or alternative (non-military) service;
- b. work executed under conditions of state of emergency, military situation, force majeure;
- c. work executed under court's judgement.

The forced labour is work under the threat of any penalty (violent impact), including:

1. as measure of political impact or punishment for holding or expressing political views or ideological convictions;
2. as a measure of mobilizing and using labour for purposes of economic development;
3. for maintaining labour discipline;
4. as retribution for workers' participation in a strike.

In accordance with the Criminal Code, engaging forced labour is punished by imprisonment from 2 to 5 years with a fine. The same offense will be penalized by imprisonment from 3 to 10 years with confiscation of property or without it, if it is committed to minor, several people, obviously pregnant woman or by group of persons by prior conspiracy/ person who has previously committed a crime or with using official status. If the forced labour causes death, serious harm to the victim's health, other heavy consequences or if use of compulsory labour is committed by an organized group, the penalty will increase: imprisonment from 8 to 12 years with confiscation of property.

Forced labour is also part of the legal term 'exploitation'. It is used as qualificatory circumstance of the crime, for example of human trafficking in the Criminal Code and in the special Anti-Trafficking Law. For these purposes the Anti Trafficking Law establishes restrictions in the field of employment in modelling agencies, tour operators, foreign companies, advertising agencies.

Sources: §41 of the Constitution; §13 of the Labour Code; §181-181.1 of the Criminal Code; §1, 14 and 15 of the Law of the Republic of Belarus «About combating with human trafficking» 07.01.2012 №350-3

Freedom to Change Jobs and Right to Quit

Everyone has the right to freely chosen employment. According to the Constitution and the Labour Code, state guarantees equal opportunities in the choice of profession.

The employee may leave job by his own initiative after serving one month written notice. The collective agreement is allowed to establish a shorter term. The employer may agree to an earlier discharge.

Under the circumstances, excluding or significantly impeding the continuation of the work (health, retirement age, the radioactive contamination or other cases), as well as in cases of violation by the employer of labour legislation, collective agreement, employment contract, the employer is obliged to terminate the employment contract in time, that is specified in a statement of the employee.

Fixed-term employment contract will be terminated prematurely at the request of the employee in the event of illness or disability, other valid reasons preventing the execution of work under an employment contract, as well as in the event of a breach by the employer of labour legislation, collective agreement, and employment contract.

The employment contract may be terminated at any time by agreement of the parties without special notice periods.

Sources: §41 of the Constitution; §37, 40 and 41 of the Labour Code

Inhumane Working Conditions

Normal working hours cannot exceed 40 hours per week. Overtime work must not exceed for each employee 10 hours per week and 180 hours per year. The duration of daily work, taking into account overtime should not exceed 12 hours. Thus, in a six-day workweek, the maximum working hours inclusive of overtime work are 50 hours (40 hours + 10 hours overtime).

Sources: §112 and 122 of the Labour Code

13/13 TRADE UNION

ILO Conventions

Freedom of association and protection of the right to organize:
Convention 87 (1948)

Right to Organize and Collective Bargaining: Convention 98 (1949)

Belarus has ratified both Conventions 87 & 98.

Summary of Provisions under ILO Conventions

Freedom of association means freedom to join a trade union. This is part of the fundamental human rights. Employees may not be put at a disadvantage when they are active in the trade union outside working hours. The list of exclusions for sectors of economic activity and workers in an organization should be short.

Trade unions are entitled to negotiate with employers on term of employment without hindrance. The freedom of a trade union to negotiate with employers to try and conclude collective agreements is protected. (The ILO has a special procedure for handling complaints from unions about violation of this principle).

Workers have the right to strike in order to defend their social and economic interests. It is incidental and corollary to the right to organize provided in ILO convention 87.

Regulations on trade unions:

- Constitution of the Republic of Belarus 1994
- Labour Code of the Republic of Belarus 1999 (version 13.11.2017)
- Law of the Republic of Belarus «About trade unions» 22.04.1992 №1605-XII (version 13.07.2016)
- Statute of the National Council of Labour and Social Affairs, established by Decree of the President of the Republic of Belarus 05.05.1999 №252
- Agreement between the Minsk Regional Association of Trade Unions, the Minsk Regional Executive Committee, the Republican Association of Industrial Enterprises and the Minsk Regional Agro-Industrial Union for 2018-2020 years
- Agreement between the Belarusian Railways and the Belarusian Trade Union of Railwaymen and Transport Builders for 2016-2018

Freedom to Join and Form a Union

Freedom to join and form unions is established by the Constitution. Activity of trade unions may be restricted only in cases stipulated by legislative acts of the Republic of Belarus in the interests of national security, public order or the rights and freedoms of others.

Trade union is a voluntary public organization uniting citizen of the Republic of Belarus, foreign citizens and stateless persons, including students, with common interests in manufacturing and non-manufacturing areas, for the protection of labour, social and economic rights and interests. According to the Labour Code, trade unions are legal representatives of workers in labour relationships.

Every person, who performs labour (professional) activity, has the right to form and join trade unions of his own choice to protect his professional interests, to engage in trade union activities and to leave trade unions. Foreign citizens and stateless persons residing in the territory of the Republic of Belarus may become members of Belarusian trade unions.

Trade unions are accorded many statutory rights, some of which include:

1. right to represent and protect workers' rights and interests in individual and collective employment relations;
2. right to engage in collective bargaining and conclude collective agreements;
3. right to take part in regulation of labour disputes;
5. right to receive information on all relevant social and labour issues without any obstruction from employers;
6. monitor the implementation of employment legislation in organizations where their members work;
7. monitor the implementation of collective agreements;
8. organise and carry out strikes.

Sources: §14 and 41 of the Constitution; §354 of the Labour Code; §1-3, 10-22 of the Law of the Republic of Belarus «About trade unions» 22.04.1992 №1605-XII

The text in this document was last updated in February 2019. For the most recent and updated text on Employment & Labour Legislation in Belarus in Russian, please refer to: <https://mojazarplata.by/>

Freedom of Collective Bargaining

Freedom of collective bargaining is established by the Constitution. Representatives of workers and employers have rights to involve in collective bargaining in preparation, conclusion or modification of collective bargaining agreements and take the initiative for such negotiations.

At the national level there is the National Council of Labour and Social Affairs. It was organized in 1999 for cooperation of the Government of the Republic of Belarus, republican associations of employers and trade unions, realisation of socio-economic policy, protection of labour rights, economic and social interests of the citizens. The National Council of Labour and Social Affairs consists of eleven representatives from each party. Parties discuss the most important issues of social and economic policy decisions, which will be established in collective agreements.

Representatives of parties, who have received an offer in writing of the beginning of collective bargaining, are obliged to enter into negotiations within seven days of receipt of the proposal. Also, they must send to initiator of the collective bargaining response indicating the representatives from their side to participate in the Commission on collective bargaining. Commission on collective bargaining is formed on parity basis.

Collective agreements can be concluded for a term ranging from 1 to 3 years. Representatives of the parties, involved in collective bargaining, are free to choose the issues of regulation of social and labour relations. The Labour Code suggests the approximate list of questions for collective bargaining, for example:

- wages;
- allowances and compensations;
- employment;
- training;
- rehabilitation and recreation of employees and their families;
- working time and rest time;
- minimum necessary services during the strike.

There are sectoral collective agreements in budgetary and commercial spheres, for example, the Agreement between the Minsk Regional Association of Trade Unions, the Minsk Regional Executive Committee, the Republican Association of Industrial Enterprises and the Minsk Regional Agro-Industrial Union for 2015-2017 years; the Agreement between the Belarusian Railways and the Belarusian Trade Union of Railwaymen and Transport Builders for 2016-2018.

Sources: §41 of the Constitution; §356, 357, 364, 367 of the Labour Code; §14 and 15 of the Law of the Republic of Belarus «About trade unions» 22.04.1992 №1605-XII; Statute of the National Council of Labour and Social Affairs, established by Decree of the President of the Republic of Belarus 05.05.1999 №252; Agreement between the Minsk Regional Association of Trade Unions, the Minsk Regional Executive

Committee, the Republican Association of Industrial Enterprises and the Minsk Regional Agro-Industrial Union for 2018-2020 years; Agreement between the Belarusian Railways and the Belarusian Trade Union of Railwaymen and Transport Builders for 2016-2018

Right to Strike

Constitution recognizes the right of workers to strike as a means of resolving a collective labour dispute. If conciliation does not lead to the resolution of a collective labour dispute, the workers (representatives) will have the right to start a strike. Decision about strike is adopted by the meeting (conference) of employees. Meeting of workers has a quorum if it is attended by more than half of the total number of employees (for conference - at least two thirds of the delegates). At least two thirds of the workers presented at the meeting (conference) should vote for a strike to reach a decision.

The employer must be warned in writing not later than 2 weeks prior to the beginning of the upcoming strike. The employer ought to notify suppliers and buyers, transport organizations, as well as other interested companies about strike, as soon as possible.

The minimum essential work or services must be performed during the strike. During the strike, parties must continue searching for ways to solve the collective labour conflict. A strike may be recognized illegal by the court, if the strike is carried out in violation of the law or makes real threat to national security, public order, public health or the rights and freedoms of people.

Workers are not paid wages for the duration of strike. Legislation does not set the order of replacement of workers taking part in strike.

Sources: §41 of the Constitution; §388-399 of the Labour Code



DECENT WORK QUESTIONNAIRE

DECENTWORKCHECK.ORG

Check

Decent Work Check Belarus is a product of www.wageindocator.org
and www.mojazarplata.by/main



National Regulation exists



National Regulation does not exist

01/13 Work & Wages

	NR	Yes	No
1. I earn at least the minimum wage announced by the Government		<input type="checkbox"/>	<input type="checkbox"/>
2. I get my pay on a regular basis. (daily, weekly, fortnightly, monthly)		<input type="checkbox"/>	<input type="checkbox"/>

02/13 Compensation

3. Whenever I work overtime, I always get compensation <i>(Overtime rate is fixed at a higher rate)</i>		<input type="checkbox"/>	<input type="checkbox"/>
4. Whenever I work at night, I get higher compensation for night work		<input type="checkbox"/>	<input type="checkbox"/>
5. I get compensatory holiday when I have to work on a public holiday or weekly rest day		<input type="checkbox"/>	<input type="checkbox"/>
6. Whenever I work on a weekly rest day or public holiday, I get due compensation for it		<input type="checkbox"/>	<input type="checkbox"/>

03/13 Annual Leave & Holidays

7. How many weeks of paid annual leave are you entitled to?*		<input type="checkbox"/> 1 <input type="checkbox"/> 2	<input type="checkbox"/> 3 <input type="checkbox"/> 4+
8. I get paid during public (national and religious) holidays		<input type="checkbox"/>	<input type="checkbox"/>
9. I get a weekly rest period of at least one day (i.e. 24 hours) in a week		<input type="checkbox"/>	<input type="checkbox"/>

04/13 Employment Security

10. I was provided a written statement of particulars at the start of my employment		<input type="checkbox"/>	<input type="checkbox"/>
11. My employer does not hire workers on fixed terms contracts for tasks of permanent nature <i>Please tick "NO" if your employer hires contract workers for permanent tasks</i>		<input type="checkbox"/>	<input type="checkbox"/>
12. My probation period is only 06 months		<input type="checkbox"/>	<input type="checkbox"/>
13. My employer gives due notice before terminating my employment contract (or pays in lieu of notice)		<input type="checkbox"/>	<input type="checkbox"/>
14. My employer offers severance pay in case of termination of employment <i>Severance pay is provided under the law. It is dependent on wages of an employee and length of service</i>		<input type="checkbox"/>	<input type="checkbox"/>





05/13 Family Responsibilities

15. My employer provides paid paternity leave <i>This leave is for new fathers/partners and is given at the time of child birth</i>		<input type="checkbox"/>	<input type="checkbox"/>
16. My employer provides (paid or unpaid) parental leave <i>This leave is provided once maternity and paternity leaves have been exhausted. Can be taken by either parent or both the parents consecutively.</i>		<input type="checkbox"/>	<input type="checkbox"/>
17. My work schedule is flexible enough to combine work with family responsibilities <i>Through part-time work or other flex time options</i>		<input type="checkbox"/>	<input type="checkbox"/>





06/13 Maternity & Work

18. I get free ante and post natal medical care		<input type="checkbox"/>	<input type="checkbox"/>
19. During pregnancy, I am exempted from nightshifts (night work) or hazardous work		<input type="checkbox"/>	<input type="checkbox"/>
20. My maternity leave lasts at least 14 weeks		<input type="checkbox"/>	<input type="checkbox"/>





* On question 7, only 3 or 4 working weeks is equivalent to 1 "YES".

- | | | | | |
|-----|---|---|--------------------------|--------------------------|
| 21. | During my maternity leave, I get at least 2/3rd of my former salary |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 22. | I am protected from dismissal during the period of pregnancy
<i>Workers can still be dismissed for reasons not related to pregnancy like conduct or capacity</i> |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 23. | I have the right to get same/similar job when I return from maternity leave |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 24. | My employer allows nursing breaks, during working hours, to feed my child |  | <input type="checkbox"/> | <input type="checkbox"/> |





07/13 Health & Safety

- | | | | | |
|-----|--|---|--------------------------|--------------------------|
| 25. | My employer makes sure my workplace is safe and healthy |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 26. | My employer provides protective equipment, including protective clothing, free of cost |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 27. | My employer provides adequate health and safety training and ensures that workers know the health hazards and different emergency exits in the case of an accident |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 28. | My workplace is visited by the labour inspector at least once a year to check compliance of labour laws at my workplace |  | <input type="checkbox"/> | <input type="checkbox"/> |









08/13 Sick Leave & Employment Injury Benefits

- | | | | | |
|-----|---|---|--------------------------|--------------------------|
| 29. | My employer provides paid sick leave and I get at least 45% of my wage during the first 6 months of illness |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 30. | I have access to free medical care during my sickness and work injury |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 31. | My employment is secure during the first 6 months of my illness |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 32. | I get adequate compensation in the case of an occupational accident/work injury or occupational disease |  | <input type="checkbox"/> | <input type="checkbox"/> |













09/13 Social Security

- | | | | | |
|-----|---|---|--------------------------|--------------------------|
| 33. | I am entitled to a pension when I turn 60 |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 34. | When I, as a worker, die, my next of kin/survivors get some benefit |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 35. | I get unemployment benefit in case I lose my job |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 36. | I have access to invalidity benefit in case I am unable to earn due to a nonoccupational sickness, injury or accident |  | <input type="checkbox"/> | <input type="checkbox"/> |



10/13 Fair Treatment

- | | | | | |
|-----|--|---|--------------------------|--------------------------|
| 37. | My employer ensure equal pay for equal/similar work (work of equal value) without any discrimination |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 38. | My employer take strict action against sexual harassment at workplace |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 39. | I am treated equally in employment opportunities (appointment,promotion, training and transfer) without discrimination on the basis of:* |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Sex/Gender |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Race |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Colour |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Religion |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Political Opinion |  | <input type="checkbox"/> | <input type="checkbox"/> |




* For a composite positive score on question 39, you must have answered "yes" to at least 9 of the choices.

Nationality/Place of Birth		<input type="checkbox"/>	<input type="checkbox"/>
Social Origin/Caste		<input type="checkbox"/>	<input type="checkbox"/>
Family responsibilities/family status		<input type="checkbox"/>	<input type="checkbox"/>
Age		<input type="checkbox"/>	<input type="checkbox"/>
Disability/HIV-AIDS		<input type="checkbox"/>	<input type="checkbox"/>
Trade union membership and related activities		<input type="checkbox"/>	<input type="checkbox"/>
Language		<input type="checkbox"/>	<input type="checkbox"/>
Sexual Orientation (homosexual, bisexual or heterosexual orientation)		<input type="checkbox"/>	<input type="checkbox"/>
Marital Status		<input type="checkbox"/>	<input type="checkbox"/>
Physical Appearance		<input type="checkbox"/>	<input type="checkbox"/>
Pregnancy/Maternity		<input type="checkbox"/>	<input type="checkbox"/>
40 I, as a woman, can work in the same industries as men and have the freedom to choose my profession		<input type="checkbox"/>	<input type="checkbox"/>





11/13 Minors & Youth

41. In my workplace, children under 15 are forbidden		<input type="checkbox"/>	<input type="checkbox"/>
42. In my workplace, children under 18 are forbidden for hazardous work		<input type="checkbox"/>	<input type="checkbox"/>

12/13 Forced Labour

43. I have the right to terminate employment at will or after serving a notice		<input type="checkbox"/>	<input type="checkbox"/>
44. My employer keeps my workplace free of forced or bonded labour		<input type="checkbox"/>	<input type="checkbox"/>
45. My total hours of work, inclusive of overtime, do not exceed 56 hours per week		<input type="checkbox"/>	<input type="checkbox"/>

13/13 Trade Union Rights

46. I have a labour union at my workplace		<input type="checkbox"/>	<input type="checkbox"/>
47. I have the right to join a union at my workplace		<input type="checkbox"/>	<input type="checkbox"/>
48. My employer allows collective bargaining at my workplace		<input type="checkbox"/>	<input type="checkbox"/>
49. I can defend, with my colleagues, our social and economic interests through "strike" without any fear of discrimination		<input type="checkbox"/>	<input type="checkbox"/>

DECENTWORKCHECK.ORG

Results

Your personal score tells how much your employer lives up to national legal standards regarding work. To calculate your DecentWorkCheck, you must accumulate 1 point for each YES answer marked. Then compare it with the values in Table below:



is your amount of "YES" accumulated.

Belarus scored 45 times "YES" on 49 questions related to International Labour Standards

If your score is between 1 - 18

This score is unbelievable! Does your employer know we live in the 21st century? Ask for your rights. If there is a union active in your company or branch of industry, join it and appeal for help.

If your score is between 19 - 38

As you can see, there is ample room for improvement. But please don't tackle all these issues at once. Start where it hurts most. In the meantime, notify your union or WageIndicator about your situation, so they may help to improve it. When sending an email to us, please be specific about your complaint and if possible name your employer as well. Also, try and find out if your company officially adheres to a code known as Corporate Social Responsibility. If they do, they should live up to at least ILO standards. If they don't adhere to such a code yet, they should. Many companies do by now. You may bring this up.

If your score is between 39 - 49

You're pretty much out of the danger zone. Your employer adheres to most of the existing labour laws and regulations. But there is always room for improvement. So next time you talk to management about your work conditions, prepare well and consult this DecentWorkCheck as a checklist.